

1 **COMMONWEALTH EMPLOYMENT ACT OF 2007**
2 **AS AMENDED BY THE**
3 **IMMIGRATION CONFORMITY ACT OF 2010**

4
5 **Amendments became effective upon signing by the Governor**
6 **March 22, 2010**

7
8 **Section 1. Short title.** This Act may be referred to as the “Commonwealth
9 Employment Act of 2007.”

10 **Section 2. Findings and purpose.** The Commonwealth Legislature finds the
11 following with respect to fair and adequate employment within the Commonwealth of the
12 Northern Mariana Islands:

13 Economic development and prosperity in the Commonwealth require that citizens and
14 permanent residents be given maximum opportunity for employment in the public and
15 private sectors of the economy.

16 The employment preference for citizens and permanent residents is implemented by
17 clarifying and improving provisions of the current law, such as limiting public sector jobs to
18 citizens and permanent residents to the maximum extent practicable, requiring that employers
19 in the Commonwealth provide jobs to citizens and permanent residents that amount to at least
20 thirty percent (30%) of the employer’s work force, and restructuring the moratorium on new
21 hiring of foreign nationals, among other measures.

22 This employment preference is promoted by effective training to qualify citizen and
23 permanent resident employees, particularly indigenous Carolinian and Chamorro people, for
24 jobs that require special skills, effective advertising of available jobs with full equivalent
25 wages or benefits compared to any wages or benefits that would be offered to a person who
26 is not a citizen or permanent resident, and effective job referral services provided to citizens
27 and permanent residents.

28 The Covenant envisioned the employment of foreign nationals in the Commonwealth
29 in order to create an economic base that would provide the citizens of the Commonwealth the
30 economic opportunities and standard of living that their counterparts on the mainland are
31 able to enjoy because of the vast area and large population from which communities on the
32 mainland may draw employees. In order for the economy to sustain and foster the
33 development that will produce an increasing number of such jobs, foreign national workers

1 must be available to fill the unskilled and lower skilled jobs that make larger business
2 enterprises economically viable in the Commonwealth.

3 The Commonwealth's very substantial investment in secondary and post-secondary
4 education over the past 30 years has strived to produce a local work force well qualified for
5 managerial, supervisory, technical, professional, visitor industry, and other jobs that are of
6 vital importance to the growth and development of the Commonwealth's economy. The
7 Commonwealth's goal is to establish a regulatory environment so that jobs are available for
8 its qualified high school, college, and graduate school graduates. To accomplish that goal,
9 the Commonwealth requires a two-pronged approach. First, with respect to all jobs, citizens
10 and permanent residents must be given preference over foreign workers imported to fill
11 specific jobs. Second, with respect to jobs for which the Commonwealth's investment in its
12 citizens and permanent residents has already produced a sufficient supply of qualified
13 persons, employers must be required to hire only those citizens and permanent residents. As
14 to the second prong, a minimum wage rate may not be sufficient to attract citizens and
15 permanent residents to take a job for which they are qualified. If the job is reserved for
16 citizens and permanent residents, then the competitive economy will cause the wage rate to
17 rise to a level that citizens and permanent residents find acceptable. As to jobs for which
18 qualified citizens and permanent residents are available, the Legislature finds that it benefits
19 the Commonwealth very substantially to have the wage rate rise to the level required. Wage
20 rates will not rise so long as cheap foreign labor is available. The incentives to foreign
21 workers to remain in the Commonwealth are very large because the working conditions in
22 the Commonwealth are so far superior to the working conditions in their home countries. For
23 that reason, foreign workers will always accept lower wages than citizens and permanent
24 residents. It was never the purpose of the legislative enactments with respect to the use of
25 foreign labor in the Commonwealth to perpetuate jobs at the minimum wage rate. If that
26 happens, much of the Commonwealth's investment in secondary and post-secondary
27 education for its citizens will be lost as those citizens migrate outside the Commonwealth to
28 find good-paying jobs.

29 In 2006, the Office of the Public Auditor launched a year-long study to identify jobs
30 in the current Commonwealth economy for which citizens and permanent residents are
31 currently available or will be available in the near future. The Public Auditor reported: "The

1 survey was prompted by complaints from residents who were unable to find employment
2 despite statutory provisions requiring preferential hiring of residents, as well as the added
3 concern of increased resident unemployment due to the workforce reductions in the private
4 sector and possible downsizing within the Government.” The Public Auditor reported that
5 the study’s “conclusions and recommendations are critical foundations in establishing a
6 sustainable resident workforce.” The study identified specific positions that “can be easily
7 filled by the existing resident pool.” The Public Auditor’s study examined carefully all of the
8 jobs currently reserved for citizens and permanent residents and expanded the list of job
9 classifications that should be reserved for residents. The Public Auditor’s study was assisted
10 by an organized committee comprised of private sector employers from various industries,
11 government officials, and other interested parties. The study consulted with the Department
12 of Labor, the Division of Immigration, the Northern Marianas College, the Workforce
13 Investment Agency, and the Department of Commerce. Prior to the release of the jobs study
14 report, more than a dozen presentations on the preliminary study were made to various public
15 and private sector groups to “ensure that input and feedback from the community was
16 considered before final release of the report.”

17
18 The Fourteenth Amendment to the United States Constitution does not deny to States the
19 power to treat different classes of persons in different ways.” *Reed v. Reed*, 404 U.S. 71, 75
20 (1971). Under the rational basis test, “[a] classification ‘must be reasonable, not arbitrary,
21 and must rest upon some ground of difference having a fair and substantial relation to the
22 object of the legislation, so that all persons similarly circumstanced shall be treated alike.’”
23 *Royster Guano Co. v. Virginia*, 253 U.S. 412, 415 (1920). The statistics provided to the
24 Legislature by the Department of Labor with respect to the history of employment in the
25 Commonwealth since 1983 when the initial foreign worker legislation was enacted; the
26 underlying goals with respect to the structure of and progress within the economy in the
27 Commonwealth; and Jobs Study Report and ongoing work of the Public Auditor form a
28 rational basis on which to treat foreign workers, present in the Commonwealth for temporary
29 work, differently from citizens and permanent residents. The Legislature finds these factors
30 form a rational basis for the government’s interest in preventing all nonresident workers from
31 working in specific job classifications and a rational basis for the government’s an interest in
32 singling out specific job classifications from all other jobs in the Commonwealth and finds

1 that the regulatory power delegated to the Secretary of Labor may be exercised in these
2 respects to implement this statute.

3 The current economic situation in the Commonwealth requires the continued
4 availability of foreign nationals to augment the work force in the Commonwealth but also
5 demands that the system for regulating the employment of foreign nationals be more efficient
6 and less costly to operate.

7 The Commonwealth has the responsibility to provide fair employment conditions for
8 foreign nationals, to use their labor for the purposes of economic growth and stability for
9 which it was intended, and to regulate labor practices in order to protect against potential
10 abuses.

11 Experience over the past 30 years has provided certain benchmarks with respect to
12 fair employment conditions for foreign nationals: The system should have clear rules, be easy
13 to understand, provide for lack of facility with the English language, protect basic rights, and
14 assist employers with compliance. The overall guiding policy with respect to foreign national
15 workers is to provide for a stable work force and protect due process rights without creating
16 entitlements.

17 The early-intervention mediation that is an integral part of the current system
18 achieves good results in promoting fair employment relationships between foreign national
19 employees and employers in the Commonwealth. Early intervention can be expanded to
20 prevent and resolve disputes more efficiently to the benefit of both employees and
21 employers.

22 Economic stability and growth in the Commonwealth require support for the visitor
23 industry and other investments, both local and foreign, that generate new employment
24 opportunities. The overall employment system must achieve a balanced approach to
25 opportunities, benefits, and costs to the Commonwealth and, in the Legislature's judgment,
26 that objective is achieved by this Act.

27 It is the intent of the Legislature that this Act shall not apply to persons admitted to
28 the Commonwealth as tourists, or to persons employed illegally, i.e. without the approval of
29 the Department of Labor, or to those persons employing others illegally in the
30 Commonwealth unless specific provision has been made herein. It is the intent of the
31 Legislature that persons illegally employing others or illegally employed be prohibited from

1 using the terms of this Act to receive or avail themselves of a legal right or benefit. This Act
2 shall not bar any other remedy provided by law.

3 The Legislature finds that requiring a foreign national worker to submit proof of
4 earnings in excess of the federal poverty guidelines before bringing family members into the
5 Commonwealth for the first time serves the important government interest of maintaining the
6 public welfare and not overburdening public institutions and services in the Commonwealth.

7 The Legislature finds that a statutory, rather than regulation-based, entry permit for
8 religious activities is necessary due to the need to respect religious requirements and at the
9 same time avoid abuse. The Legislature supports the free expression of religious belief by
10 persons or groups present in the Commonwealth and recognizes the need for their
11 employment of religious professionals for that purpose. The Legislature finds that there is no
12 impairment of the pursuit of religious beliefs or undue burden in the requirement that foreign
13 nationals entering for religious employment be employed by identifiable religious
14 organizations and subject to the same contract requirements as other foreign national
15 workers.

16 It is the intent of the Legislature that this Act shall not conflict with treaty obligations
17 of the United States. In the event of conflict, U.S. treaty provisions shall pre-empt the
18 provisions of this Act.

19 It is the intent of the Legislature that this Act shall not conflict with Chapter 5 of Part
20 1 of Division 1 of Title 6 of the Commonwealth Code (Human Trafficking and Related
21 Offenses). This Act shall in no way limit the authority of the Commonwealth to bring an
22 action pursuant to that chapter.

23 It is the intent of the Legislature to repeal current Chapters 5 and 7 of Division 4 of
24 Title 3 of the Commonwealth Code.

25 It is the intent of the Legislature that this Act shall supersede any conflicting portions
26 of Public Law 15-5, effective April 10, 2006. It is the intent of the Legislature that this Act
27 shall supersede Public Law 15-45, effective January 29, 2007, but shall preserve its purpose
28 and intent.

29 It is with these stated objectives that the 15th Commonwealth Legislature enacts these
30 labor reforms in order to meet the economic needs of citizens, permanent residents,
31 businesses, and foreign national workers in the Commonwealth.

1 (Added by the Immigration Conformity Act of 2010)

2 *Public Law 110-229 does not ipso jure preempt the Commonwealth's labor laws. In*
3 *the United States federal system, there are areas in which the States share responsibilities*
4 *with the federal government. Labor (including the terms and conditions under which workers*
5 *are employed) is such an area. The federal government can regulate labor through its*
6 *control of interstate commerce and immigration. But the States remain free to regulate labor*
7 *under the power to control intrastate commerce and under the general police power. The*
8 *Commonwealth has all of the powers of a State in this area, as well as the powers of local*
9 *self-government under the Covenant. Employers and workers in the Commonwealth must*
10 *comply with both federal and CNMI law.*

11 *It is the intent of the Legislature that this Act shall exercise the authority of the*
12 *Commonwealth to regulate labor conditions and practices within the Commonwealth to the*
13 *full extent that this area could be regulated by a State and can be regulated under the*
14 *Covenant. It is further the intent of the Legislature to regulate the terms and conditions*
15 *under which permits previously issued by the Commonwealth were granted so long as those*
16 *permits remain in force and protect the status of foreign national workers as lawfully present*
17 *in the Commonwealth.*

18 *It is the intent of the Legislature that the umbrella permits issued by the Department*
19 *of Labor in 2009 continue to be governed under the Department's normal processes. All*
20 *umbrella permits and the bases on which they were granted are ratified and approved, nunc*
21 *pro tunc, any other provision of current or former law or regulation notwithstanding.*

22 *It is the intent of the Legislature that this Act shall replace the decisions in Smith &*
23 *Williams v. Royal Crown Ins. Co., NMI Super. Ct. Small Claims Nos. 06-0676 et al.*
24 *(February 5, 2007) and Zhou v. Oceania Ins. Corp., NMI Super. Ct. Small Claims Nos. 08-*
25 *0452 et al. (February 5, 2009) so that plaintiffs holding unpaid awards under orders issued*
26 *by the Administrative Hearing Office of the Department of Labor may proceed with*
27 *collection actions in the Commonwealth courts without first exhausting collection remedies*
28 *at the Department of Labor.*

29 *It is the intent of the Legislature to provide to the maximum extent permitted by law*
30 *an employment priority for United States citizens, United States permanent residents, and*
31 *CNMI permanent residents (as that status was defined by Commonwealth law prior to April*
32 *23, 1981) in the workforce of the Commonwealth in order to develop the human resources of*
33 *the people of the Commonwealth as reflected in the provisions and stated intent of PL 110-*
34 *229. It is the intent of the Legislature that the employment priority for United States citizens,*
35 *United States permanent residents, and CNMI permanent residents established by*
36 *Commonwealth law provide legitimate grounds under the Immigration Reform and Control*
37 *Act (IRCA), P.L. 99-603 (1986) for hiring decisions based on citizenship in both the*
38 *government and private sectors in the Commonwealth.*

39

1 **Section 3. Recodification.** Division 4 of Title 3 of the Commonwealth Code is
2 recodified as follows:

3 (a) Chapters 1 and 2 shall be codified as Part 1, Chapters 1 and 2 of Division 4. Part 1
4 shall be entitled “Citizenship.”

5 (b) Chapter 3 shall be codified as Part 2, Chapter 1 of Division 4. Part 2 shall be entitled
6 “Entry and Deportation.”

7 (c) Chapters 4-8 shall be repealed and reenacted pursuant to Section 4 of this Act and
8 codified as Part 3, Chapters 1-6 of Division 4. Part 3 shall be entitled “Employment.”

9 (d) The Commonwealth Law Revision Commission shall have the discretion to adjust the
10 numbering of code divisions, parts, articles, or sections affected by this Act as
11 necessary to effectuate a reasonable codification of Sections 3 and 4 of this Act.
12

13 (Added by the Immigration Conformity Act of 2010)

14
15 *Title 3 of the Commonwealth Code is amended as follows:*

16
17 *Part 1: Citizenship*

18 A. *Division 4 (Immigration), Part 1 (Citizenship), Chapter 1 (Interim Citizenship Status)*
19 *is repealed.*

20 B. *Division 4 (Immigration), Part 1 (Citizenship), Chapter 2 (Permanent Residency*
21 *Status) is repealed.*

22
23 *Part 2: Entry and Deportation*

24 C. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
25 *Entry and Deportation Act), Article 1 (General) is repealed.*

26 D. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
27 *Entry and Deportation Act), Article 2 (Organization) is repealed.*

28 E. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
29 *Entry and Deportation Act), Article 3 (Persons Entering the Commonwealth) is*
30 *repealed.*

31 F. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
32 *Entry and Deportation Act), Article 4 (Entry requirements and procedures) is*
33 *repealed.*

34 G. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
35 *Entry and Deportation Act), Article 5 (Deportation and departure) is repealed.*

36 H. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
37 *Entry and Deportation Act), Article 6 (Registration of aliens) is repealed.*

1 I. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
2 *Entry and Deportation Act), Article 7 (Criminal penalties and miscellaneous*
3 *provisions) is repealed.*

4 J. *Division 4 (Immigration), Part 2 (Entry and Deportation), Chapter 1 (Commonwealth*
5 *Entry and Deportation Act), Article 8 (Detection and apprehension of illegal aliens)*
6 *is repealed.*

7

8 **Section 4. Repealer and reenactment.** The Nonresident Workers Act of the
9 Commonwealth of the Northern Mariana Islands, codified in Title 3, Division 4, Chapters 4-8
10 of the Commonwealth Code, is repealed and re-enacted as Part 3, Chapters 1-6 of Division 4
11 of Title 3 as follows:

12 (Added by the Immigration Conformity Act of 2010)

13 *Division 4 of Title 3 is renamed “Employment and Registration” and the name*
14 *“Immigration” is deleted. Part 1 of Division 4 is repealed. Part 2 of Division 4 is repealed.*
15 *Part 3 (Employment) of Division 4 is renamed Part 1 (Employment). A new Part 2*
16 *(Registration) is added.*

17

18 *Division 4 (Immigration), Part 3 (Employment), Chapter 3 (Moratorium on the Hiring of*
19 *Foreign National Workers) is repealed.*

20

21 *Division 4 (Immigration), Part 3 (Employment), Chapter 4 (Reserved) is repealed.*

22

23 *Division 4 (Immigration), Part 3 (Employment), Chapter 5 (Certification Pre-Clearance) is*
24 *repealed.*

25

26 *Division 4 (Immigration), Part 3 (Employment), Chapter 6 (Employment of Foreign*
27 *Nationals) is renumbered Chapter 3.*

28

29 **PART 1. Employment.**

30 **CHAPTER 1. Department of Labor.**

31 **CHAPTER 2. Employment Preference for Citizens, CNMI Permanent Residents**
32 **and U.S. Permanent Residents.**

33 **CHAPTER 3. Employment of Foreign Nationals.**

34

35 **CHAPTER 1. Department of Labor.**

36 **§ 4401. [Reserved]**

1 § 4402. [Reserved]
2 § 4403. Conflicts of interest
3 § 4404. Duties and responsibilities
4
5

6 § 4401. [Reserved]
7 § 4402. [Reserved]

8 § 4403. Conflicts of interest.

9 No employee or official of the Department of Labor, or his or her immediate relative,
10 shall own or have an equity interest in an employment agency or other business engaged in
11 recruiting or processing employment-related documents. No employee of the Department of
12 Labor shall accept a gratuity or other benefit from an employer or employee whose activities
13 are regulated by this Act unless otherwise permitted by law or regulation. Any person who
14 violates this section shall be guilty of a felony, and may be punished by a fine of five
15 thousand dollars (\$5,000). In addition to any fine, any person who violates this section may
16 be punished by imprisonment for not more than five (5) years. A person convicted under this
17 section shall be terminated from his or her government employment and shall not be re-
18 employed by the Commonwealth government, in any capacity, for a period of ten (10) years
19 from the date of conviction.

20 §4404. Duties and responsibilities.

21 The Secretary may appoint and by regulation define duties and responsibilities for
22 directors and managers in order that the Department's functions may be adjusted flexibly to
23 meet citizen employment needs under changing conditions.
24

25 **CHAPTER 2. Employment Preference for Citizens, CNMI Permanent Residents and**
26 **U.S. Permanent Residents.**

27
28 **Article 1. General**

29 **Article 2. Private sector employment preference**

30 **Article 3. Government employment preference**
31

1 **Article 1. General**

2 **§ 4511. Definitions**

3

4 **§ 4511. Definitions**

5 As used in this chapter, the following terms shall, unless the context clearly indicates
6 otherwise, have the following meanings:

- 7 (a) “Administrative Hearing Office” means the hearing office of the Department of
8 Labor; and for purposes of 1 CMC §§9109 and 9110 as those provisions may apply to
9 this chapter;
- 10 (b) “Citizen” means a person who is a citizen or national of the United States;
- 11 (c) “CNMI permanent resident” means a person who was granted the status of CNMI
12 permanent resident by the CNMI government prior to April 23, 1981;
- 13 (d) “Department” means the Department of Labor;
- 14 (e) “Domestic helper” means a person who assists an employer with the domestic duties
15 of a household, including but not limited to cooking, cleaning, and care for children,
16 elders, and handicapped persons in the home; and does not include farmers;
- 17 (f) “Employer” means a person, corporation, partnership, or other legal entity that has a
18 current business license issued by the Commonwealth, is doing business in the
19 Commonwealth, and has one or more approved employment contracts with foreign
20 national workers, or is acting directly or indirectly in the interest of a person,
21 corporation, partnership or other legal entity in relation to an employee; or a person
22 employing a farmer or domestic helper; and does not include the government of the
23 United States;
- 24 (g) “FAS citizen” means a citizen of the Freely Associated States, which are the
25 Federated States of Micronesia, The Republic of the Marshall Islands, and the
26 Republic of Palau, who is legally residing in the Commonwealth;
- 27 (h) “Hearing officer” means a hearing officer appointed by the Secretary who serves in
28 the Administrative Hearing Office and who conducts mediations, hearings, and other
29 proceedings as necessary; and for purposes of 1 CMC §§9109 and 9110 as those
30 provisions may apply to this chapter;

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- 1 (i) “Indigenous” means a person generally recognized in the community as a person of
2 Northern Marianas Descent, who is also a citizen or CNMI permanent resident and
3 speaks the Carolinian or Chamorro language to a degree of fluency such that the
4 person may accomplish the basic daily tasks of life without resorting to a language
5 other than the Carolinian or Chamorro language;
- 6 (j) “Job classification” means the job classifications described by regulations;
- 7 (k) “Permanent resident” or “permanent residents” includes U.S. permanent residents,
8 CNMI permanent residents, and FAS citizens residing in the Commonwealth;
- 9 (l) “Regulation” means a regulation or regulations promulgated by the Secretary of
10 Labor or the Secretary of Public Health pursuant to this part;
- 11 (m) “Secretary” means the Secretary of Labor;
- 12 (n) “U.S. permanent resident” means a person who has been granted permanent resident
13 status by the United States.
- 14

15 **Article 2. Private sector employment preference**

16 **§ 4521. Job preference**

17 **§ 4522. Job vacancy announcement**

18 **§ 4523. Job referral and advertising**

19 **§ 4524. Compliance with the “Resident Workers Fair Compensation Act”**

20 **§ 4525. Work force participation by citizens, CNMI permanent residents and U.S.
21 permanent residents**

22 **§ 4526. Exemptions**

23 **§ 4527. Investigations**

24 **§ 4528. Adjudication of claims**

25 **§ 4529. Statistical data**

26 **§ 4530. Regulations**

27
28 **§ 4521. Job preference.**

29 Citizens, CNMI permanent residents and U.S. permanent residents shall be given
30 preference for employment in the Commonwealth. Capability in the official languages of the

1 Commonwealth is an important skill with respect to working effectively within the
2 Commonwealth.

3 **§ 4522. Job vacancy announcement.**

4 Any employer may utilize the Department to fill a job vacancy by filing a job vacancy
5 announcement which includes information as required by the Secretary by regulation. Any
6 employer seeking permission to employ workers other than citizens or CNMI permanent
7 resident and U.S. permanent residents shall utilize the Department as provided in this
8 chapter.

9 **§4523. Job referral and advertising.**

10 Upon receiving a job vacancy announcement, the Department shall assess the good faith
11 efforts by the employer to fill the job vacancy with a qualified citizen, CNMI permanent
12 resident or U.S. permanent resident and then shall endeavor to fill the job vacancy by referral
13 of qualified citizens, CNMI permanent residents or U.S. permanent residents registered with
14 the Department. If sufficient qualified citizens, CNMI permanent residents, or U.S.
15 permanent residents are not supplied by such good faith efforts or referral, the Department
16 shall cause the existence of the vacancy and other applicable information regarding the job to
17 be published as prescribed by regulation. The job vacancy announcement shall state the
18 wages and all benefits offered, together with the net cash equivalent of employer-supplied
19 medical insurance, housing, food, transportation, and other benefits, if any, and shall be
20 published for no less than two consecutive days in each of two weeks or equivalent. This
21 requirement may not be waived.

22 **§4524. Compliance with the “Resident Workers Fair Compensation Act.”**

23 All notices issued under this Article shall comply with 4 CMC §9501 et seq., the
24 “Resident Workers Fair Compensation Act.”

25 **§4525. Work force participation by citizens, CNMI permanent residents and U.S.**
26 **permanent residents.**

27 (a) In the full-time workforce of any employer, the percentage of citizens, U.S.
28 permanent residents, and CNMI permanent residents and their immediate relatives
29 employed shall equal or exceed the percentage of citizens, U.S. permanent residents,
30 and CNMI permanent residents and their immediate relatives in the available private

1 sector workforce unless attainment of this goal is not feasible within the current
2 calendar year after all reasonable efforts have been made by the employer.

3 (b) The Secretary shall not waive the requirements of this section.

4 **§ 4526. Exemptions.**

5 (a) The provisions of section 4525 shall not apply to employers of fewer than five (5)
6 employees, provided however, the Secretary may, by regulation, require each
7 business to have at least one employee who is a citizen, CNMI permanent resident or
8 U.S. permanent resident, or remove the exemption available to employers against
9 whom two or more judgments are entered in Department proceedings in any two (2)
10 year period.

11 (b) The Secretary, or an authorized designee, may grant an exemption from this chapter
12 for a particular construction project of limited duration.

13 **§ 4527. Investigations.**

14 The Department or a designee shall conduct investigations as the Department may deem
15 appropriate and necessary to enforce the provisions of this chapter and regulations
16 promulgated thereunder, and to ensure lawful working terms and conditions.

17 **§ 4528. Adjudication of claims.**

18 (a) A citizen, CNMI permanent resident, or U.S. permanent resident who is qualified for
19 a job may make a claim for damages if an employer has not met the requirements of
20 Section 4525, the employer rejects an application for the job without just cause, and
21 the employer employs a person who is not a citizen, CNMI permanent resident, or
22 U.S. permanent resident for the job.

23 (b) The Administrative Hearing Office has original jurisdiction to resolve all claims filed
24 pursuant to this section.

25 (c) A hearing officer shall have general power to issue subpoenas, summon witnesses,
26 require production of books, papers, documents and records, administer oaths, and
27 such other powers as may be necessary to implement this chapter effectively. A
28 hearing officer may refer a matter to the Department for investigation if the hearing
29 officer deems investigation warranted and justified under the circumstances.

30 (d) A hearing shall be commenced as soon as practicable after filing of a complaint and
31 any mediation that may be held in the matter. Notwithstanding any other provision of

1 law, hearings shall be open to the public. Adequate notice and opportunity to present
2 relevant evidence shall be given to all parties.

3 (e) The hearing officer shall, upon concluding the hearing, issue any necessary findings,
4 decisions, and orders as soon as practicable. Issuance of findings, decisions, and
5 orders shall be pursuant to 1 CMC §9110, but shall not be judicially reviewable until
6 final.

7 (f) The hearing officer is authorized to:

8 (1) Award actual and liquidated damages in an amount up to six months' wages for
9 the job for which a citizen, CNMI permanent resident, or U.S. permanent resident
10 applied; and

11 (2) Levy a fine not to exceed two thousand dollars (\$2,000) for each violation of any
12 provision of this chapter.

13 (g) Within fifteen (15) days of issuance, any person or party affected by findings,
14 decisions, or orders made pursuant to subsection (f) of this section may appeal to the
15 Secretary. Upon appeal, the Secretary may, in the Secretary's discretion, restrict
16 review to the existing records, supplement the record with new evidence, hear oral
17 argument, or hear the matter *de novo* pursuant to 1 CMC §§9109 and 9110. The
18 Secretary shall have the same powers as a hearing officer in addition to other powers
19 pursuant to this section. Upon completion of review, the Secretary shall affirm or
20 modify the finding, decision, or order in writing. Any modification shall include
21 supplemental findings. The Secretary's decision shall constitute final action for
22 purposes of judicial review.

23 (h) Judicial review of a final action of the Secretary is authorized after exhaustion of all
24 administrative remedies and shall be initiated within thirty (30) days of the final
25 action. Judicial review shall be pursuant to 1 CMC §9112. Appeals from a final
26 action by the Secretary shall be made directly to the Commonwealth Superior Court.

27 **§ 4529. Statistical data.**

28 The Secretary shall maintain statistical data with respect to the number of citizens and
29 CNMI permanent resident and U.S. permanent residents employed in each of the relevant
30 NAICE categories. The Secretary shall describe any special definitions used in these regards

1 to account for all employment of citizens, CNMI permanent residents and U.S. permanent
2 residents within the enumerated categories.

3 **§ 4530. Regulations.**

4 The Secretary shall promulgate regulations to implement the intent of this chapter
5 pursuant to the Administrative Procedures Act including any delegation of the Secretary's
6 duties as imposed herein to any employee of the Department.

7
8 **Article 3. Government employment preference**

9 **§ 4531. Restrictions on government employment**

10 **§ 4532. Exemptions**

11 **§ 4533. Manpower training programs**

12 **§ 4534. [Reserved]**

13 **§ 4535. Contract personnel**

14 **§ 4536. Payment of medical and related expenses**

15
16 **§ 4531. Restrictions on government employment.**

17 Employment by departments, agencies, and all other instrumentalities of the
18 Commonwealth government is limited to citizens and permanent residents; provided that the
19 government may enter into contracts with foreign nationals for services performed outside of
20 the Commonwealth.

21 **§ 4532. Exemptions.**

22 Persons other than citizens and permanent residents may be exempted from the
23 employment restriction in 3 CMC §4531 and employed within the following government
24 entities and positions, on a case by case basis.

25 (a) Department of Public Health. United States or Canadian board-certified physicians
26 and dentists licensed to practice in the Commonwealth.

27 (b) Department of Commerce. Temporary or part-time employees as needed for
28 censuses and statistical surveys.

29 (c) Government translators. Approved foreign national translators for: the Department of
30 Labor, the Office of the Attorney General, the Office of the Public Defender, the
31 Department of Public Safety, the Commonwealth Superior Court, the Commonwealth

1 Supreme Court, and the Marianas Visitors Authority. The Attorney General shall
2 establish guidelines for the approval of foreign national translators for the Executive
3 Branch. The Supreme Court may establish guidelines for the approval of foreign
4 national translators for the Judiciary.

5 **§4533. Manpower training programs.**

6 In coordination with the Office of Personnel Management, the Northern Marianas
7 College, the Public School System, and the Workforce Investment Agency, each
8 Commonwealth government entity, except the judiciary, authorized pursuant to this chapter
9 to employ workers other than citizens and permanent residents shall develop, maintain, and
10 implement a comprehensive manpower training and education plan covering each position
11 held by a foreign national worker. Failure of the government hiring authority to comply with
12 this provision shall, after thirty (30) days, automatically suspend the privilege of hiring
13 workers other than citizens and permanent residents by the non-complying entity, and this
14 provision shall be strictly enforced. The Office of Personnel Management shall monitor
15 automatic suspensions and shall not approve any contract for the employment of a foreign
16 national worker at a government agency that has been suspended for non-compliance
17 pursuant to this section.

18 **§ 4534. [Reserved]**

19 **§ 4535. Contract personnel.**

20 A government entity authorized to employ persons other than citizens and permanent
21 residents under this chapter may employ such persons through a direct employment contract
22 or by a contract for such services with a licensed manpower agency.

23 **§ 4536. Payment of medical and related expenses.**

24 All employment contracts in which any branch, agency or instrumentality of the
25 Commonwealth government is the employer shall provide for payment of the costs of health
26 insurance for a foreign national worker, as defined in 3 CMC §4911, on the same terms as for
27 citizen and permanent resident employees and other workers, and shall provide for the
28 payment of the costs of repatriation, as defined in 3 CMC §4911.

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1 **CHAPTER 3. Employment of Foreign Nationals**

2
3 **Article 1. General**

4 **Article 2. Identification and documentation**

5 **Article 3. Standards for employment**

6 **Article 4. Adjudication of employment disputes**

7 **Article 5. Exit from the Commonwealth**

8 **Article 6. Other provisions**

9
10 **Article 1. General.**

11 **§ 4911. Foreign National Workers: Definitions**

12
13 **§ 4911. Foreign National Workers: Definitions.**

14 The definitions in 3 CMC §4511 are hereby incorporated by reference and, in addition, as
15 used in this chapter, the following terms shall, unless the context clearly indicates otherwise,
16 have the following meanings:

- 17 (a) “Approved employment contract” means a written contract between a foreign
18 national worker and an employer, which has been approved by the Secretary,
19 specifying the terms and conditions for work to be performed by the foreign national
20 worker within the Commonwealth;
- 21 (b) “Approved health insurance contract” means a written contract executed by an
22 employer, providing coverage for health care costs of one or more foreign national
23 workers, in a form that has been approved by the Secretary of Public Health;
- 24 (c) “Approved security contract” means a written contract executed by an employer
25 providing full security for all employer obligations with respect to the employment of
26 foreign national workers as required by this chapter, in a form that has been approved
27 by the Secretary;
- 28 (d) “*Bona fide* non-profit religious undertaking” means a religious organization legally
29 established or incorporated in the Commonwealth that is exempt from
30 Commonwealth taxation, or U.S. taxation as an organization described in 26 U.S.C.
31 §501(c)(3);

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- 1 (e) “Debarment” means, pursuant to an administrative order, the temporary or
2 permanent prohibition on employment by an employer of foreign national workers;
- 3 (f) “Foreign national worker” means a person who is not a United States citizen, a
4 United States permanent resident, a CNMI permanent resident, or an immediate
5 relative of a United States citizen or a United States permanent resident, or an
6 immediate relative of a CNMI permanent resident, and who entered the CNMI as a
7 nonimmigrant for the declared purpose of being employed in the Commonwealth;
- 8 (g) “Identification card” means an identification card issued by the Department using the
9 Labor Information Data System (LIDS) or comparable system to assign a unique
10 identification number to a particular person;
- 11 (h) “Immediate relative” means a parent, spouse, or child, whether natural or adopted, if
12 adopted before his or her eighteenth birthday, up to twenty-one years of age including
13 step children. A disabled child of any age qualifies as an immediate relative if in the
14 continuous custody and care of the parent;
- 15 (i) “Mediation” means an informal, non-public, confidential meeting attended by the
16 parties to a labor dispute or potential labor dispute together with a mediator at the
17 Administrative Hearing Office in order to seek a voluntary resolution of the dispute
18 satisfactory to all parties and reflected in a written agreement;
- 19 (j) “Repatriation” means the exit from the Commonwealth and travel to the point of hire
20 for a foreign national worker or immediate relative of a foreign national worker by
21 voluntary action of the foreign national worker; and in the case of the death of a
22 foreign national worker while in the Commonwealth, the embalming and shipment of
23 the body to the point of hire;
- 24 (k) “Termination” means, with respect to an approved employment contract, the
25 expiration of the contract according to its terms, termination by a party for cause or as
26 otherwise permitted by this chapter during the term of the contract, or termination by
27 the Secretary for cause during the term of the contract; and
- 28 (l) “Transfer” means any process by which a foreign national worker who is a party to an
29 approved employment contract with one employer becomes employed by a different
30 employer without first exiting the Commonwealth.

1 (m) “Umbrella permit” means a two-year permit issued prior to November 28, 2009 by
2 the Department of Labor, the Department of Commerce, or under the authority of the
3 Attorney General, to expire on November 27, 2011, that protects the status of the
4 holder to remain in the Commonwealth until revoked or expired.
5

6 **Article 2. Identification and documentation.**

7 **§ 4921. [Reserved]**

8 **§ 4922. Approved employment contract**

9 **§ 4923. Health certification**

10 **§ 4924. Approved security contract**

11 **§ 4925. Foreign national worker status**

12 **§ 4926. Immediate relative of foreign national worker status**

13
14 **§ 4921. [Reserved]**

15 **§ 4922. Approved employment contract.**

16 (a) Each foreign national worker in the Commonwealth shall be a party to a currently
17 effective approved employment contract.

18 (b) An employer may apply to the Department for an approved employment contract
19 pursuant to which a specifically identified foreign national worker will be employed
20 for a one (1) year or a two (2) year term, at the employer’s option, provided however
21 that the Secretary may, by regulation, provide for approved employment contracts of
22 shorter terms for specialty jobs and provide for part-time casual and other
23 employment.

24 (c) The application for an approved employment contract shall be accompanied by a non-
25 refundable application fee to be established by the Department and supported by the
26 following documentation:

27 (1) A proposed employment contract signed by the foreign national worker in full
28 compliance with all applicable Commonwealth laws;

29 (2) A copy of the Notice to Foreign National Workers, required by section 4938(a),
30 that has been delivered to the foreign national worker in his or her native
31 language;

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- 1 (3) An approved health insurance contract signed by the employer;
2 (4) Such other documentation as required by the Secretary; and
3 (5) All applicable fees.
- 4 (d) The Department shall, in writing, either approve the application or deny the
5 application and state the reasons for denial; provided however, the Department may
6 defer action on any application if the employer is a party to any pending case either in
7 the Department or in any court arising from an alleged violation of Commonwealth
8 labor or wage laws.
- 9 (e) The Department shall approve only one employment contract for any foreign national
10 worker; provided however, that a foreign national worker in addition to one full time
11 contract employment, or an eligible immediate relative of a foreign national worker,
12 may be employed by the Central Statistics Division of the Department of Commerce
13 on a temporary or part-time basis as an enumerator or translator to assist with the
14 census and surveys to be conducted by the Central Statistics Division.

15 **§4923. Health certification.**

- 16 (a) [Reserved]
- 17 (b) The Secretary may require a foreign national worker admitted to the Commonwealth,
18 or a person admitted to the Commonwealth as an immediate relative of a foreign
19 national worker, to undergo a physical examination in the Commonwealth performed
20 by any medical physician licensed to practice general medicine in the Commonwealth
21 by the Commonwealth Medical Professional Licensing Board within ten (10)
22 business days after entry into the Commonwealth. The cost of a physical examination
23 of a foreign national worker shall be paid by the employer of the foreign national
24 worker. The cost of an examination of an immediate of the foreign national worker
25 shall be paid by the foreign national worker.
- 26 (c) Within ten (10) business days after the examination, the examining physician shall
27 transmit the certificate to the Secretary of Public Health for transmission to the
28 Secretary of Labor together with a finding as to whether there is any medical reason
29 that the person should not be permitted to remain in the Commonwealth. This finding
30 shall be based on the medical probability that any disease, whether or not
31 communicable, or any disability or any other medical condition would result in

1 significant danger to the health of the inhabitants of the Commonwealth or the need
2 for prolonged medical care or treatment while in the Commonwealth.

3 (d) Upon receiving notice that there is a medical reason any foreign national worker or
4 immediate relative should not be permitted to remain in the Commonwealth for health
5 reasons designated as a threat to the public health in the Commonwealth by the
6 Secretary of Public Health, the Secretary shall notify the foreign national worker and
7 offer repatriation at the earliest date on which it is medically safe to travel. If
8 repatriation is not accomplished, the Secretary shall forward the relevant
9 documentation to the federal immigration authorities for deportation.

10 **§ 4924. Approved security contract.**

11 (a) Prior to commencement of work by a foreign national worker, an employer shall
12 submit to the Secretary an approved security contract providing financial assurance,
13 in an amount acceptable to the Secretary, for the faithful performance of the
14 obligations of the employer under the approved employment contract and
15 Commonwealth law with respect to the employment of foreign national workers.

16 (b) After the commencement of operation of the LTARF as provided in subsection (e) of
17 this section, the approved security contract must be in one of three forms:

18 (1) Bonding by contract with a bonding company carrying a national rating in the
19 United States and approved by the Secretary;

20 (2) Bonding by contract with a bonding company approved by the Secretary and
21 within an allotment established by the Secretary for that company for a specified
22 number of foreign workers based on the financial assets of the company, the
23 estimated total repatriation costs plus an estimated amount to meet other
24 obligations of the employers to be covered by the company's financial assets, and
25 other relevant factors as provided by regulation; or

26 (3) Trust account coverage by direct contract with the Department for payment for
27 each foreign national worker into an account maintained by the Department,
28 provided however that only employers with no outstanding unpaid amounts due
29 the trust account or judgments arising out of Department proceedings more than
30 sixty (60) days in arrears, except those pending appeal, are eligible for trust
31 account coverage. The total amount paid into the trust account by an employer

1 must cover the estimated total repatriation cost for the foreign worker plus an
2 estimated amount to cover other obligations of the employer. If a foreign national
3 worker is repatriated by the employer and the Department determines that there
4 are no outstanding obligations of the employer with respect to that worker, the
5 amount paid into the trust account with respect to that worker shall be repaid by
6 the Department to the employer less an amount, as determined by the Secretary,
7 to reimburse the Department for its actual administrative costs; such costs shall
8 not exceed 4% of the amount deposited by the employer.

9 (c) Each approved security contract shall include the term “Department of Labor surety.”

10 An instrument including the term “Department of Labor surety” is payable up to the
11 full amount, without regard to any limiting terms, notice, attendance at hearing, or
12 any other procedural requirement, immediately upon issuance of a final order or
13 judgment by a hearing officer, the Secretary, or a court of competent jurisdiction
14 arising out of any Department proceeding.

15 (d) Any default on an approved security contract shall require the Department to publish
16 an appropriate notice that the defaulting person or corporate entity is no longer
17 acceptable to the Department. An employer that is a party to any approved security
18 contract with such defaulting person or entity must provide the Department with a
19 substitute approved security contract within sixty (60) days of receipt of notice or
20 forfeit the privilege of employing foreign national workers.

21 (e) There is hereby created the Labor Trust Account Revolving Fund (LTARF) which
22 shall be accounted for separately from the General Fund.

23 (1) All monies received as payments under contracts provided for in subsection (b)(3)
24 above shall be deposited into the LTARF.

25 (2) Expenditure authority over the LTARF is vested in the Secretary. Monies in the
26 revolving fund shall be available without appropriation by the Legislature and
27 shall be used to pay judgments for repatriation, unpaid wages, and other damages
28 against employers arising out of Department proceedings with respect to foreign
29 national workers, which remain unpaid by employers or their bonding companies
30 after sixty (60) days or as provided by regulation. The Department shall have a
31 right to proceed against any such employer or bonding company in the place of

1 the foreign national worker to whom or on whose behalf payments were made
2 from the revolving fund. Any balance remaining from funds collected under
3 subsection (b)(3) shall be refunded to the employer in accordance with that
4 subsection.

5 (3) Any interest earned on the LTARF shall become part of the fund.

6 (4) With respect to the management of the LTARF and the expenditures made from
7 it, the Department is exempt from Title 1, Division 7, Part 1, Chapters 1 through
8 7, 1 CMC §7101 et seq.

9 **§ 4925. Foreign national worker status.**

10 (a) The Secretary shall cause to be issued an identification card which shall include the
11 foreign national worker's name, LIDS number, such identifying information as the
12 Secretary shall find necessary, and the expiration date of the card.

13 (b) Each identification card may be renewed annually until the foreign national worker
14 leaves the Commonwealth.

15 (c) The Secretary, by regulation, may establish streamlined procedures for renewals,
16 including letter renewal, if there are no changes in the information contained on the
17 initial application.

18 (d) All fees for the initial application for and annual renewals of the identification card
19 for a foreign national worker shall be the responsibility of and shall be paid, without
20 offset or charge back to the foreign national worker, by the employer or the
21 employer's registered agent.

22 (e) Umbrella permits issued by the Department continue in full force and effect until
23 revoked. Each holder of an umbrella permit must also hold a current identification
24 card.

25 **§ 4926. Immediate relative of foreign national worker status.**

26 (a) [Reserved]

27 (b) Each immediate relative of a foreign national worker shall be issued an identification
28 card which shall include the sponsoring foreign national worker's name, and the
29 relative's name, LIDS number, such identifying information as the Secretary finds
30 necessary, and the expiration date of the card. The expiration date of the card shall be

1 the same expiration date as the identification card held by the sponsoring foreign
2 national worker.

3 (c) [Reserved]

4 (d) Each identification card for an immediate relative shall be renewed annually.

5 (e) All fees for the initial application for and annual renewals of identification cards for
6 immediate relatives shall be the responsibility of the foreign national worker.

7 (f) Umbrella permits issued by the Department to immediate relatives continue in full
8 force and effect until revoked. Each holder of an umbrella permit must also hold a
9 current identification card.

10

11 **Article 3. Standards for employment.**

12 **§ 4931. Standard conditions of employment**

13 **§ 4932. Medical insurance**

14 **§ 4933. Benefits**

15 **§ 4934. Orientation**

16 **§ 4935. Contract renewal**

17 **§ 4936. Transfer by administrative order**

18 **§ 4937. Reductions in force**

19 **§ 4938. Avoidance and early resolution of potential labor disputes**

20 **§ 4939. Inspection of worksites**

21 **§ 4940. Investigations**

22

23 **§ 4931. Standard conditions of employment.**

24 (a) Single employer. A foreign national worker may be employed by only one employer
25 pursuant to a single approved employment contract, except as provided by regulation.

26 (b) Identification. Upon being issued an identification card, a foreign national worker
27 shall maintain the identification card in his or her personal possession at all times
28 during working hours, including at all times during travel by airplane or boat during
29 working hours. Loss or destruction of the identification card shall be reported to the
30 Department within two (2) business days. Seizure of an identification card by an
31 employer shall be a violation of this section.

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- 1 (c) Wage rates. No foreign national worker employed pursuant to this chapter shall be
2 paid less than the minimum wage provided by law. An approved employment
3 contract shall provide that any future increase in the applicable minimum wage prior
4 to the termination of the contract shall apply to work performed under the contract on
5 or after the effective date of the increase.
- 6 (d) Location of work site. The location of the work site shall be specified in the
7 approved employment contract.
- 8 (e) Hours of work. The hours of work shall be specified in the approved employment
9 contract. Overtime work may be offered by the employer but not required. Any
10 period of time during which the foreign national worker is required to be present at
11 any location within the Commonwealth designated by his or her employer shall be
12 considered working hours for purposes of determining wages and overtime pay.
- 13 (f) Payment of wages. Unless otherwise provided by law, a foreign national worker
14 shall be paid bi-weekly in an amount specified in the approved employment contract.
15 Nothing in this section requires an employer to pay wages for which the employee
16 did not work. Payment of wages shall be in full compliance with Commonwealth law
17 and applicable federal law.
- 18 (g) Deductions from wages. Each expense of the employer to be deducted from the
19 wages of a foreign national worker shall be specified in the approved employment
20 contract and shall be itemized on the wage documentation provided to the foreign
21 national worker by the employer. Allowable deductions shall be defined in
22 regulations, and no other deductions may be made from the wages of a foreign
23 national worker.
- 24 (h) Documents. The employer shall provide to each foreign national worker promptly
25 after arrival in the Commonwealth a copy of the approved employment contract. No
26 employer may withhold from any foreign national worker any passport, identification
27 card, or other document related to the status of the foreign national worker.
- 28 (i) Subcontracting. Any subcontract by an employer to another employer for the
29 services of a foreign national worker shall be implemented or performed only with
30 the prior approval of the Secretary. The exception for census workers in section
31 4922(e) shall apply to this subsection.

1 (j) Contract changes. Any change to an existing approved employment contract shall be
2 implemented or performed only with the prior approval of the Secretary.

3 (k) Manpower plan. Prior to the approval of an employment contract for a foreign
4 national worker, an employer with ten (10) or more employees shall submit to the
5 Department a comprehensive manpower training and education plan for increasing
6 the percentage of citizens and permanent residents in the workforce of the employer;
7 provided however, the Secretary may, by regulation, remove the exemption available
8 to employers against whom two (2) or more judgments are entered in Department
9 proceedings in any two (2) year period. An employer that has submitted adequate
10 documentation with respect to compliance for the immediately preceding two (2)
11 years with Section 4525 may be exempted at the discretion of the Secretary.

12 **§ 4932. Medical insurance.**

13 (a) Employers shall pay all expenses of necessary medical care for foreign national
14 workers except as provided by regulation. After commencement of operation of the
15 LHIRF as provided in subsection (d) of this section, employers of foreign national
16 workers shall be required to have an approved health insurance contract providing
17 coverage for each foreign national worker employed. This contract shall be effective
18 upon entry of the foreign national worker to the Commonwealth and may be
19 cancelled upon the expiration of the employer's obligation as provided in subsection
20 (b) of this section.

21 (b) The employer's obligation to carry medical insurance for each foreign national
22 worker employed shall continue for the duration of an approved employment contract
23 and until the earliest of the following:

24 (1) Exit of the foreign national worker from the Commonwealth; or

25 (2) Sixty (60) days after the lawful termination of an approved employment contract
26 with the foreign national worker, except that the employer's obligation to pay
27 medical expenses shall continue during the pendency of a renewal application
28 filed with the Department.

29 (c) The approved health insurance contract must cover all needed nonelective care for
30 foreign national workers, include a co-pay element approved by the Secretary of
31 Health, and must be in one of three forms:

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- 1 (1) Self insurance by direct contract with one or more medical providers licensed in
2 the Commonwealth or elsewhere, provided however that only employers with
3 more than \$1 million in assets and no outstanding unpaid bills more than sixty
4 (60) days in arrears to CHC are eligible to self-insure;
- 5 (2) Insurance by contract with an insurance company carrying a national rating in the
6 United States and approved by the Secretary of Public Health; or
- 7 (3) Pool insurance by direct contract with the Commonwealth Health Center for a
8 monthly premium for each foreign national worker, provided however that only
9 employers with no outstanding unpaid premiums more than sixty (60) days in
10 arrears to CHC are eligible for pool insurance and the total annual premium
11 payments for pool insurance must be calculated to cover the total annual cost of
12 the care provided to workers in the pool. The Secretary of Public Health shall
13 promulgate regulations for the implementation of this section.
- 14 (d) There is hereby created the Labor Health Insurance Revolving Fund (LHIRF) which
15 shall be accounted for separately from the General Fund.
- 16 (1) All monies received as payments under contracts provided for in subsection (c)(3)
17 above shall be deposited into the LHIRF.
- 18 (2) Expenditure authority over the LHIRF is vested in the Secretary of Public Health.
19 Monies in the revolving fund shall be available without appropriation by the
20 Legislature and be used to pay for the health care obligations of participating
21 employers with respect to foreign national workers and the health care obligations
22 of participating foreign national workers with respect to their immediate relatives
23 and associated or supporting expenses of the Commonwealth Health Center.
- 24 (3) Any interest earned on the LHIRF shall become part of the Fund.
- 25 (4) With respect to the management of the revolving fund and the expenditures made
26 from it, the Department of Public Health is exempt from Title 1, Division 7, Part
27 1, Chapters 1 through 7, 1 CMC §7101 et seq.

28 **§ 4933. Benefits.**

29 Except as otherwise provided by a memorandum or other agreement between the
30 Commonwealth and the foreign country that issued a passport to the foreign national worker,
31 employers may but are not required to provide housing, food, transportation, and other

1 benefits beyond the medical insurance required under Section 4932; and foreign national
2 workers may not be required by an employer to utilize housing, food, transportation, or other
3 benefits beyond the medical insurance required under Section 4932 .

4 **§ 4934. Orientation.**

5 (a) Within one (1) week of arrival in the Commonwealth each foreign national worker
6 shall attend an orientation at the Department or other location as designated by the
7 Secretary. The orientation shall cover the rights and obligations of employers, agents
8 of employers, and foreign national workers and such other information as the
9 Secretary deems useful in avoiding potential labor disputes. Orientations shall be
10 conducted on normal business days by employees of the Department.

11 (b) Identification cards issued pursuant to 3 CMC §4925 shall be delivered to the foreign
12 national worker at the orientation session. The foreign national worker shall
13 acknowledge receipt of the identification card and attendance at the orientation.

14 (c) Any employer of a foreign national worker or a representative may attend an
15 orientation session at any time.

16 (d) The Secretary may cancel an orientation session due to lack of demand.

17 **§ 4935. Contract renewal.**

18 (a) An approved employment contract with a foreign national worker may be renewed.
19 The criteria for approval of renewals shall be provided by regulation.

20 (b) A request for renewal shall be made by submitting to the Secretary a renewal form
21 signed by the employer and foreign national worker; a new approved employment
22 contract if necessary; an approved health insurance contract as provided in section
23 4932, an approved security contract as provided in Section 4924; a nonrefundable and
24 nontransferable renewal application fee; and such additional documentation the
25 Secretary may require by regulation.

26 (c) A request for renewal shall be submitted no earlier than forty-five (45) days prior to
27 the termination date and no later than thirty (30) days prior to the termination date of
28 an approved employment contract.

29 **§ 4936. Transfer by administrative order.**

30 A foreign national worker shall not transfer from one employer to another at any time
31 prior to or after contract expiration. A transfer or extension of time to transfer may be granted

1 as a remedy only pursuant to an administrative order issued by a hearing officer. This section
2 shall not limit any right or remedy provided under Commonwealth law.

3 **§ 4937. Reductions in force.**

4 An employer who employs foreign national workers may reduce the number of current
5 employees based on economic necessity. The employer shall provide notice to the
6 Department at least sixty (60) days prior to the reduction in force.

7 **§ 4938. Avoidance and early resolution of potential labor disputes.**

8 (a) Notice to Foreign National Workers. The Secretary shall approve a form of written
9 notice and each employer shall deliver the notice to each foreign national worker
10 upon commencement of employment within the Commonwealth. The notice shall be
11 in the principal language of the foreign national worker and shall explain clearly, in
12 separate sentences, each of the basic legal employment rights of foreign national
13 workers in the Commonwealth as provided by law; and such other information as the
14 Secretary deems useful in avoiding potential labor disputes.

15 (b) Reporting of potential disputes.

16 (1) In the event that an employer fails to make full and complete payment of bi-
17 weekly wages less allowable deductions on two successive occasions, or if a
18 conflict arises between the foreign national worker and the employer about
19 working conditions or the implementation of the terms of the approved
20 employment contract, the foreign national worker shall report the potential
21 dispute to the Department promptly in order to facilitate early resolution of the
22 potential dispute and to maintain the employment relationship.

23 (2) In the event that a foreign national worker fails to report for work for two (2)
24 successive weeks without notice to the employer of medical or other reasons for
25 absence, or if a conflict arises between the employer and the foreign national
26 worker about working conditions or the implementation of the terms of the
27 approved employment contract, the employer shall report the potential dispute to
28 the Department promptly in order to facilitate early resolution of the potential
29 dispute and to maintain the employment relationship.

30 (c) Accountability. Each employer is accountable for every foreign national worker for
31 whom the employer has had an approved employment contract in effect at any time

1 during the preceding calendar year and shall ensure that such persons are currently
2 employed by the employer, have transferred to another employer by administrative
3 order, have exited the Commonwealth, are otherwise accounted for as remaining in
4 the Commonwealth lawfully, or are deceased. In the event that an employer becomes
5 unable to account for a foreign national worker, the employer shall report to the
6 Department within fifteen (15) business days. This provision shall have only
7 prospective application.

8 (d) Mediation of labor disputes. The Administrative Hearing Office shall, as it finds
9 necessary and useful, conduct early intervention in potential and actual labor disputes
10 in order to seek a mediated resolution.

11 (1) Upon the filing of a labor complaint, or upon the receipt of a report from an
12 employer or a foreign national worker pursuant to subsection (c) of this section
13 that reasonably appears likely to be resolved through mediation, the
14 Administrative Hearing Office may set the matter for prompt mediation and
15 notify the parties to appear.

16 (2) In the event that a matter is set for mediation, the parties shall attend the
17 mediation and make a good faith attempt to settle the dispute before proceeding
18 with the claim. If the Department is the complainant, it may waive the mediation
19 requirement.

20 (3) Failure of a complainant to appear at the mediation without providing the
21 Administrative Hearing Office with advance written notice at least five (5) days
22 prior to the scheduled appearance may result in the dismissal of a complaint
23 without prejudice.

24 (4) At a mediation session, a hearing officer may issue a notice of hearing with
25 respect to the complaint, dismiss a complaint as untimely under section 4962(b),
26 and take other administrative actions to assist in the prompt resolution of the
27 complaint.

28 **§ 4939. Inspection of worksites.**

29 (a) Administrative inspections of worksites. In order to enforce the labor laws of the
30 Commonwealth, the Secretary or a designee may inspect any worksite where foreign
31 national workers are employed.

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- 1 (1) No warrant is required for inspection of a worksite, and the Department need not
2 present any evidence of a violation of labor laws or regulations as a basis for such
3 an inspection. As a condition of enjoying the privilege of employing foreign
4 national workers in the Commonwealth, every employer who executes an
5 approved employment contract with a foreign national worker shall be deemed to
6 have consented, expressly and in writing, to administrative inspections of the
7 employer's worksites in accordance with the provisions of this chapter.
- 8 (2) No notice of the date and time of the inspection need be given to the employer in
9 advance of the actual inspection.
- 10 (3) The Department shall furnish, at a reasonable cost, to every employer of foreign
11 national workers whose worksite is subject to inspection a list of revised statutes
12 and regulations describing the employer's obligations and defining the
13 inspector's authority.
- 14 (b) Frequency of inspections. The rules governing the frequency of administrative
15 inspections shall be prescribed by regulation and published in an administrative
16 schedule.
- 17 (c) Scope of inspections. The inspector may inspect:
- 18 (1) All public areas of the worksite and premises to which the general public might
19 reasonably be expected to have access to during normal business hours;
- 20 (2) All areas of the worksite and premises in which workers are observed, or might
21 reasonably be expected to have access to during the normal operation of the
22 employer's business;
- 23 (3) The employer's payroll records, approved foreign national worker contracts, or
24 any other documents or business records the employer is required to collect,
25 maintain or produce for inspection pursuant to this chapter, regulations, and the
26 Minimum Wage and Hour Act;
- 27 (4) All equipment, machines, tools, or devices any worker might reasonably be
28 expected to use, operate or maintain, in the normal course of the employer's
29 business;
- 30 (5) All safety devices, safeguards (such as machine guarding, electrical protection,
31 scaffolding, safe walking-working surfaces, means of egress in case of

1 emergencies or fire, ventilation, noise exposure protection, personal protective
2 equipment for eyes, face, head and feet, fire protection and sanitation), drinking
3 water supply and toilet facilities;

4 (6) All waste disposal equipment, trash and refuse containers; and

5 (7) Employer-provided housing and common areas, including, but not limited to: fire
6 protection devices or improvements; sanitation equipment; ventilation, whether
7 natural or mechanical; drinking water supply; toilet facilities; cooking facilities,
8 equipment and appliances; food and food storage equipment and facilities;
9 lighting; windows and screens; bedding; laundry facilities, equipment and
10 supplies.

11 (d) Authority of inspectors.

12 (1) If a violation of any labor law or regulation is found, the inspector may issue a
13 citation, notice of violation, or other process intended to correct the violation or
14 enjoin the employer from certain practices or commence an enforcement action
15 against the employer.

16 (2) The inspector may contact all persons on the worksite to ascertain whether they
17 are foreign national workers and whether they are in possession of valid
18 identification cards, as required by law.

19 (3) The inspector shall not detain or arrest any person, but may refer any person to
20 another enforcement agency for further action consistent with the laws of the
21 Commonwealth or of the United States.

22 (e) Show cause hearing. The Administrative Hearing Office shall disqualify an employer
23 who has refused inspection from employing foreign national workers for a period of
24 at least six (6) months, unless the employer can prove by clear and convincing
25 evidence, that the inspection:

26 (1) Was not requested during normal business hours;

27 (2) Exceeded the frequency of inspections allowed;

28 (3) Exceeded the scope of inspections allowed or was outside the regulatory authority
29 of the Department;

30 (4) Was motivated by spite, harassment, or some improper motive unrelated to the
31 enforcement of this chapter;

1 (5) Was contrary to specific, valid privacy concerns to the employer that are not
2 accommodated by provisions (1) through (4) of this subsection.

3 (f) Personnel for inspections. For purposes of carrying out responsibilities pursuant to
4 this section, the Secretary may, by agreement with other agencies of the
5 Commonwealth government, utilize with or without reimbursement, the services,
6 personnel, or facilities of the other agencies.

7 (g) Inspections of worksites pursuant to warrant.

8 (1) In those instances where the Secretary or a designee intends to inspect any
9 location or worksite in furtherance of obtaining evidence related to a specific
10 criminal investigation, a search warrant from the Commonwealth Superior Court,
11 requiring a showing of probable cause, shall be required.

12 (2) In the event that an employer refuses consent for an inspection or if the
13 Department's inspection will exceed the scope or frequency of the inspections
14 authorized under subsections (a) through (e) of this section, the Secretary or a
15 designee may seek an administrative warrant from the Department's
16 Administrative Hearing Office.

17 (3) An administrative warrant shall be granted if the Department demonstrates to the
18 satisfaction of a hearing officer that one of the following standards has been met:

19 (i) The worksite has been chosen for an inspection on the basis of a general
20 administrative plan derived from neutral criteria for the enforcement of
21 Commonwealth labor laws and regulations;

22 (ii) The Department has presented evidence establishing reasonable suspicion of a
23 recent, ongoing or imminent violation of this chapter, regulations, the
24 Minimum Wage and Hour Act, or any other Commonwealth law protecting
25 the health and safety of employees, at the worksite for which the
26 administrative warrant is sought; or

27 (iii) The Department has presented evidence that the employer has been cited for
28 a violation of Commonwealth labor laws or regulations within the past twelve
29 (12) months at the worksite in question, and the past violation is one that is
30 easily repeated, easily concealed, and poses a risk to the health and safety of
31 one or more employees.

1 **§ 4940. Investigations.**

2 The Department or a designee shall conduct investigations as the Department may deem
3 appropriate and necessary to enforce the provisions of this chapter and regulations, and to
4 ensure lawful working conditions, employer-supplied benefits, and the health and safety of
5 foreign national workers.

6

7 **Article 4. Adjudication of employment disputes.**

8 **§ 4941. Complaints and actions in labor matters**

9 **§ 4942. Jurisdiction of the Administrative Hearing Office**

10 **§ 4943. [Reserved]**

11 **§ 4944. Powers of the hearing officer**

12 **§ 4945. Service of process**

13 **§ 4946. Conduct of hearings**

14 **§ 4947. Orders and relief**

15 **§ 4948. Appeal to the Secretary**

16 **§ 4949. Judicial review**

17 **§4950. Preservation of private rights of action**

18

19

20 **§ 4941. Complaints and actions in labor matters.**

21 (a) Individual complaints. Any foreign national worker who is aggrieved by the failure
22 or refusal of his or her employer to comply with an approved employment contract
23 may make a complaint to the Department. Any employer of a foreign national
24 worker who is aggrieved by the failure or refusal of his or her employee to comply
25 with an approved employment contract may make a complaint to the Department.

26 (b) Department actions. The Department may commence an action against an employer
27 or a foreign national worker for an alleged violation of the labor or wage laws of the
28 Commonwealth.

29 (c) Court actions. The Attorney General, at the request of the Secretary, may institute an
30 action in any court of competent jurisdiction for a temporary restraining order,
31 injunction, or other appropriate remedy to enforce any provision of this chapter.

1 **§ 4942. Jurisdiction of the Administrative Hearing Office.**

2 (a) Jurisdiction. The Administrative Hearing Office shall have original jurisdiction to
3 resolve all actions involving alleged violations of the labor and wage laws of the
4 Commonwealth, including but not limited to any violation of this chapter and
5 regulations promulgated thereunder. The Commonwealth Superior Court shall have
6 concurrent jurisdiction to resolve all labor and wage violations that are criminal in
7 nature.

8 (b) Single action required. The Administrative Hearing Office shall hear all claims of the
9 foreign national worker or the employer in a single action. The failure of a party to
10 assert all claims before the Administrative Hearing Office arising out of an
11 employment relationship shall result in a waiver by the party of unasserted claims and
12 bar assertion in a subsequent proceeding to the fullest extent permitted by
13 Commonwealth law.

14 (c) Limitation on stays of proceedings. The Administrative Hearing Office shall not stay
15 any proceeding to allow the parties to proceed with their claims in a different forum
16 except upon order of a court of competent jurisdiction.

17 **§ 4943. [Reserved]**

18 **§ 4944. Powers of the hearing officer.**

19 A hearing officer shall have general power to issue subpoenas, summon witnesses,
20 require production of books, papers, documents and records, administer oaths, and such other
21 powers as may be necessary to implement this chapter effectively. A hearing officer may
22 refer a matter to the Department for investigation if the hearing officer deems investigation
23 warranted and justified under the circumstances.

24 **§ 4945. Service of process.**

25 Service of process for any notice of any kind required for any proceeding conducted by
26 the Administrative Hearing Office may be by personal service, by first class mail, postage
27 prepaid, to the foreign national worker at the address supplied with the complaint or any
28 written update provided to the Department, and to the employer at the address supplied with
29 the application for the approved employment contract or any written update provided to the
30 Department, or by publication in any English-language newspaper of general circulation in
31 the Commonwealth, at the discretion of the Administrative Hearing Office.

1 **§ 4946. Conduct of hearings.**

2 A hearing shall be commenced as soon as practicable after filing of a complaint and any
3 mediation that may be held in the matter. Adequate notice and opportunity to present
4 relevant evidence shall be given to all parties. Notwithstanding any other provision of law, a
5 hearing may be closed at the discretion of the Administrative Hearing Office upon a showing
6 that it is in the best interests of a party. A decision to close or not to close a hearing shall be
7 reviewable by the Secretary.

8 **§ 4947. Orders and relief.**

9 (a) The hearing officer may, after notice and an opportunity to be heard is provided to the
10 parties, dismiss *sua sponte* a complaint that the hearing officer finds ~~on its face~~ to be
11 without merit. Dismissal shall be reviewable pursuant to the Administrative
12 Procedure Act (1 CMC §9101 et seq.)

13 (b) The hearing officer shall, upon concluding a hearing, issue any necessary findings,
14 decisions, and orders as soon as practicable.

15 (c) Issuance of findings, decisions, and orders shall be pursuant to 1 CMC §9110, but
16 shall not be judicially reviewable until final.

17 (d) The hearing officer is authorized to:

18 (1) Award unpaid wages or overtime compensation, amounts unlawfully deducted
19 from wages or unlawfully required by an employer to be paid by a foreign
20 national worker, damages for unlawful termination of an approved employment
21 contract, or damages, when appropriate, for conduct of the employer that is in
22 violation of Commonwealth or federal law;

23 (2) Assess liquidated damages in twice the amount of unpaid wages or overtime
24 compensation in any case in which a foreign national worker prevails on unpaid
25 wages or overtime compensation claims unless the hearing officer finds
26 extenuating circumstances; and assess liquidated damages in an amount to be
27 determined at the hearing in cases in which the employer's conduct in failing to
28 pay wages or overtime is found to have been willful or retaliatory;

29 (3) Cancel or modify an identification card or an approved employment contract;

30 (4) Order temporary or permanent debarment of an employer;

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- 1 (5) Disqualify a foreign national worker, temporarily or permanently, from
2 employment in the Commonwealth;
- 3 (6) Levy a fine not to exceed two thousand dollars (\$2,000) for each violation of any
4 provision of this chapter;
- 5 (7) Issue declaratory or injunctive relief as appropriate; and
- 6 (8) Award attorneys fees when appropriate in addition to any other enumerated
7 remedy; provided however that attorneys fees shall not be recoverable against the
8 Commonwealth.
- 9 (9) Modify an umbrella permit. An umbrella permit may be continued in effect on
10 any of the bases upon which it could have been granted.
- 11 (10) Revoke umbrella permits for violation of, or condition the continuation in
12 effect of umbrella permits as appropriate to secure compliance with,
13 Commonwealth law, regulations, orders of a hearing officer, or terms of the
14 permit.
- 15 (11) Impose such other sanction, order or relief as may reasonably give effect to
16 Division 4, Title 3.
- 17 (e) If other remedies are insufficient to provide a foreign national worker the benefit of
18 the bargain made when entering the approved employment contract, the hearing
19 officer may grant a transfer so that a foreign national worker may become employed
20 under a new approved employment contract without first exiting the Commonwealth,
21 provided that:
- 22 (1) The grounds for granting transfer relief are limited to an unlawful termination of
23 an approved employment contract by an employer; the voiding of an approved
24 employment contract or debarment of an employer for a violation under this
25 chapter; a reduction in force pursuant to Section 4937; the abandonment of the
26 worker during the term of an approved employment contract, but prior to ninety
27 (90) days before the termination date of the contract, by an employer who failed
28 to pay bi-weekly wages on two successive occasions, closed a business, declared
29 bankruptcy, or exited the Commonwealth evidencing an intent not to return; or,
30 upon a finding by the hearing officer that the foreign national worker has

1 prevailed under an equivalent theory of law or equity and that transfer relief is
2 appropriate.

3 (2) A transfer may be granted only to a foreign national worker who has complied
4 with the provisions of the approved employment contract to the extent practicable
5 under the circumstances, and for whom transfer relief is required in order to
6 assure receipt of the benefit of the bargain under the contract that is the subject of
7 the action.

8 (3) A transfer shall be completed within thirty (30) days of the order and in
9 compliance with Sections 4922, 4924, and 4925 of this chapter.

10 (f) The hearing officer may authorize a foreign national worker to be employed in the
11 Commonwealth on a temporary basis pending a hearing with respect to a labor
12 complaint. A temporary work authorization shall end two (2) business days after the
13 hearing officer's order is issued.

14 (g) The hearing officer may assess costs for repatriation of a foreign national worker.

15 (h) The hearing officer may find an action to be frivolous if it is unfounded in fact or law
16 or initiated primarily to obtain an undue pecuniary benefit or for distraction or delay.
17 The filing of an action which is determined by a preponderance of the evidence to be
18 frivolous shall be grounds for permanently disqualifying the foreign national worker
19 who filed the action from employment in the Commonwealth or permanently barring
20 an employer who filed the action from further employment of foreign national
21 workers.

22 (i) The hearing officer shall notify the federal immigration authority promptly upon
23 cancellation or modification of an identification card.

24 **§ 4948. Appeal to the Secretary.**

25 (a) Within fifteen (15) days of issuance, any person or party affected by findings,
26 decisions, or orders made pursuant to Section 4947 of this chapter may appeal to the
27 Secretary by filing a written notice of appeal, in a form prescribed by regulations,
28 stating the grounds for the appeal. If no appeal is made to the Secretary within fifteen
29 (15) days, the findings, decisions, or orders shall be unreviewable administratively or
30 judicially.

1 (b) Upon appeal, the Secretary may, in the Secretary's discretion, restrict review to the
2 existing records, supplement the record with new evidence, hear oral argument, or
3 hear the matter *de novo* pursuant to 1 CMC §§9109 and 9110. The Secretary shall
4 have the same powers as a hearing officer, including but not limited to the power to
5 grant or extend a temporary work authorization, in addition to other powers pursuant
6 to this chapter.

7 (c) Upon completion of review, the Secretary shall confirm or modify the finding,
8 decision, or order in writing as soon as practicable. Any modification shall include
9 supplemental findings. The Secretary's decision shall constitute final action for
10 purposes of judicial review. Failure by the Secretary to confirm or modify a finding,
11 decision, or order within thirty (30) days shall constitute confirmation of each of the
12 findings, decisions, or orders of the hearing officer as the final action of the Secretary
13 for purposes of judicial review.

14 **§ 4949. Judicial review.**

15 (a) Judicial review of a final action of the Secretary is authorized after exhaustion of all
16 administrative remedies and shall be initiated within thirty (30) days of final action.

17 (b) Except as may be contrary to the provisions of this chapter, judicial review shall be
18 pursuant to 1 CMC §9112. Appeal from a final action by the Secretary shall be
19 directly to the Commonwealth Superior Court.

20 (c) Notwithstanding any other provision of law:

21 (1) Notice of all actions and proceedings pursuant to this section shall be served upon
22 the Attorney General;

23 (2) Judicial review shall be confined to the record; and

24 (3) Actions involving judicial review of final action by the Secretary shall be limited
25 to the appeal; other causes of action may not be alleged in the action for judicial
26 review.

27 **§4950. Preservation of private rights of action.**

28 (a) A foreign national worker may bring a direct action in the Commonwealth
29 courts against an employer, or against the issuer of any bond required by the
30 Department of Labor to secure the performance of an employer, with respect

1 to any obligation to pay wages, overtime, medical expenses, or other benefits
2 secured by an employment contract.

3 (b) The Department of Labor may, but is not required to, enforce its
4 administrative orders by bringing an action in the courts.

5 (c) Nothing in this Act shall be construed as limiting the ability of a foreign
6 national worker third-party beneficiary of a bond to bring suit directly against
7 the surety to enforce the bond and collect from the surety to the limits of the
8 bond any finally adjudicated unsatisfied liabilities of the employer to the
9 worker.

10 (d) This section shall have retroactive effect. Claims shall be preserved that are
11 pending or were dismissed or subject to dismissal for lack of authority to
12 bring a direct action. Any statute of limitations for such claims shall be tolled
13 from February 5, 2007, to the effective date of this Act.

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15

16 **Article 5. Exit from the Commonwealth.**

17 **§ 4951. Exit during the contract term**

18 **§ 4952. Exit after the contract term**

19 **§ 4953. [Reserved]**

20 **§ 4954. Responsibility for costs of repatriation**

21 **§ 4955. [Reserved]**

22 **§ 4956. Limited stay and re-entry for litigation purposes**

23 **§ 4957. No stay or bar in other actions**

24
25

25 **§ 4951. Exit during the contract term.**

26 A foreign national worker who exits the Commonwealth during the term of an approved
27 employment contract for any purpose other than employment shall inform the Department of
28 the date of exit and date of return. No final administrative order shall be entered during the
29 absence of a foreign national worker in compliance with this section prior to the date of
30 return indicated.

31 **§ 4952. Exit after the contract term**

1 A foreign national worker shall exit the Commonwealth within fifteen (15) days after the
2 date of termination of the approved employment contract or renewal, except as provided by
3 §4956 of this chapter.

4 **§ 4953. [Reserved]**

5 **§ 4954. Responsibility for costs of repatriation.**

6 (a) The last employer of record of a foreign national worker shall be responsible for the
7 costs of repatriating that worker except that employment under a temporary work
8 authorization shall not give rise to this obligation. For the purposes of this section, a
9 person employing a foreign national worker without an approved employment
10 contract or identification card or otherwise in violation of Commonwealth law may
11 be held jointly or severally liable for repatriation costs whenever assessed.

12 (b) A foreign national worker shall be responsible for the repatriation costs for any
13 immediate relative of that worker previously declared upon entry to the
14 Commonwealth regardless of divorce or any other claim or controversy with respect
15 to status as immediate relative.

16 (c) The Department may assess repatriation costs by order to a last employer of record or
17 other employer or, in the case of an immediate relative, to a foreign national worker.
18 Within fifteen (15) days of the issuance of an assessment of repatriation costs by the
19 Department, any person or party affected by the assessment order may appeal the
20 order in accordance with Section 4948 and seek judicial review in accordance with
21 Section 4949.

22 **§ 4955. [Reserved]**

23 **§ 4956. Limited stay and re-entry for litigation purposes.**

24 (a) A foreign national worker who is required to exit the Commonwealth shall be
25 permitted to remain in the Commonwealth for a period not to exceed thirty (30) days
26 in order to pursue a civil or criminal claims, or to pursue violations of any
27 Commonwealth labor law. After the filing of an action, this period may be extended
28 and departure stayed by a hearing officer or court of competent jurisdiction as
29 necessary to ensure due process rights are protected.

30 (b) A foreign national worker who has exited the Commonwealth shall be permitted to
31 re-enter the Commonwealth not more than five (5) days prior to a scheduled trial or

1 for any other proceeding for which his or her attendance is required, unless a court of
2 competent jurisdiction orders otherwise.

3 (c) A foreign national worker remaining or re-entering under this section shall exit the
4 Commonwealth within three (3) days of the close of the proceeding, unless a court of
5 competent jurisdiction orders otherwise.

6 (d) [Reserved]

7 **§ 4957. No stay or bar in other actions.**

8 No provision of this chapter shall make available or operate as a stay of any court order
9 of deportation. No provision of this chapter shall bar any other civil or criminal action.

10

11 **Article 6. Other provisions.**

12 **§ 4961. Regulations and legislative oversight**

13 **§ 4962. Limitations**

14 **§ 4963. Prohibitions**

15 **§ 4964. Sanctions and penalties**

16 **§ 4965. [Reserved]**

17 **§ 4966. No liability**

18 **§ 4967. Required records**

19 **§ 4968. Fees**

20 **§ 4969. Statistical data**

21 **§ 4970. Required reports**

22 **§ 4971. Electronic filing**

23 **§ 4972. Transition provisions**

24 **§ 4973. Authorization for appropriations**

25

26 **§ 4961. Regulations and legislative oversight.**

27 (a) The Secretary, the Secretary of Public Health, and any other government agency so
28 authorized by this part shall promulgate regulations to implement the intent of this
29 part pursuant to the Administrative Procedure Act (1 CMC §9101 et seq.), including
30 the delegation of any duties as imposed herein.

1 (b) Any changes to the regulations after the effective date of this part, before coming into
2 effect, shall be put before the Legislature for thirty (30) days and may be rejected in
3 whole or in part by joint resolution.

4 **§ 4962. Limitations.**

5 (a) Limitation on effect of foreign national worker status. No employment contract,
6 registration, certification, permit, or the presence of a foreign national worker in the
7 Commonwealth pursuant thereto, shall be grounds for naturalization, or citizenship,
8 or permanent residence in the Commonwealth except as may otherwise be provided
9 by law.

10 (b) Limitation on time for filing labor complaints. No labor complaint may be filed more
11 than six (6) months after the date of the last-occurring event that is the subject of the
12 complaint, except in cases where the actionable conduct was not discoverable upon
13 the last-occurring event. In such instance no labor complaint may be filed more than
14 six (6) months after the date a complainant of reasonable diligence could have
15 discovered the actionable conduct. In any event, no labor complaint may be filed
16 more than thirty (30) days after the termination of an approved employment contract.

17 **§ 4963. Prohibitions.**

18 (a) (1) No person who enters the Commonwealth as a nonimmigrant resident alien may
19 obtain a financial interest in, operate, or engage in any business, or become an
20 employer without first qualifying under Chapter 9 of Division 5 of Title 4, or
21 under other applicable provisions of Commonwealth law; provided however that
22 only U.S. citizens may qualify as a notary public.

23 (2) No person who enters the Commonwealth as a nonimmigrant resident alien may
24 employ a foreign national worker.

25 (3) No person who has at any time entered the Commonwealth for employment may
26 maintain a financial interest in, operate, or engage in any business, or employ
27 others without first qualifying under Chapter 9 of Division 5 of Title 4, or under
28 other applicable provisions of Commonwealth law.

29 (b) No foreign national worker under the age of twenty-one (21) shall be employed in the
30 Commonwealth.

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- 1 (c) A foreign national worker shall not perform any services or labor within the
2 Commonwealth for any employer other than the employer with whom the foreign
3 national worker has an approved employment contract, except as provided by
4 regulation.
- 5 (d) An employer or a foreign national worker shall not make a materially false statement
6 or give materially misleading information, orally or in writing, to the Department or
7 any employee or officer of the Executive Branch with respect to any requirement of
8 this chapter.
- 9 (e) A foreign national worker shall not work in any capacity, including but not limited to
10 employment or engagement for training, other pre-employment purposes, or any other
11 arrangement that constitutes an employment relationship, prior to the issuance or after
12 the expiration of an identification card.
- 13 (f) A foreign national worker, after filing a labor complaint, shall not perform services or
14 labor for any employer other than under an approved employment agreement or under
15 a temporary work authorization issued by the Department.
- 16 (g) An employer with a total full-time work force of ten (10) or more employees shall not
17 employ foreign national workers who hold temporary work authorizations in more
18 than ten (10) percent of all positions. An employer with a total full-time work force
19 of fewer than ten (10) employees shall not employ more than one foreign national
20 worker who holds a temporary work authorization.
- 21 (h) An employer shall not pay a foreign national worker at a rate of pay lower than the
22 minimum wage as provided by Commonwealth law or applicable federal law or at a
23 rate of pay higher than the rate at which the job was advertised in compliance with 3
24 CMC § 4523.
- 25 (i) An employer shall not make any deduction from the wages of a foreign national
26 worker in violation of Commonwealth law.
- 27 (j) An employer shall not employ a person who is not a citizen or permanent resident and
28 who has entered the Commonwealth without authorization to work; provided
29 however, the Attorney General may authorize a witness or victim of human
30 trafficking or a material witness or victim in another civil or criminal proceeding to
31 work in the Commonwealth without regard to this provision.

1 (k) An employer shall not file an application for an approved employment contract with
2 the Department without the intent or present capability to provide a viable wage-
3 paying job for the foreign national worker within the Commonwealth.

4 (l) This section shall not stay or bar any civil or criminal action in any court.

5 **§ 4964. Sanctions and penalties.**

6 After hearing pursuant to the Administrative Procedure Act, 1 CMC §9101 et seq.:

7 (a) Violation of any subsection of Sections 4923 and 4931 by an employer shall be
8 grounds for debarment of the employer; provided however confiscation of travel
9 documents for the purpose of controlling the movements of a trafficking victim
10 pursuant to the Anti-Trafficking Statute, Chapter 5 of Division 1 of Title 6, is not a
11 violation of this chapter

12 (b) Violation of any subsection of Sections 4923 and 4931 by a foreign national worker
13 shall be grounds for repatriation.

14 (c) An employer who knowingly requires or permits a foreign national worker to pay
15 initial application or renewal fees shall be subject to debarment.

16 (d) In order to prevent the solicitation of sponsorships under circumstances when a
17 foreign national worker is present in the Commonwealth and seeking to stay, a
18 foreign national worker who, while in the Commonwealth, pays for an application fee
19 or a renewal fee shall be subject to repatriation.

20 (e) Violation of Section 4931(k) by making any unapproved change to an approved
21 employment contract shall be, in the discretion of the Secretary and in addition to
22 other available sanctions, grounds for a declaration that the contract is void and for
23 revocation of an identification card of a foreign national worker, and for debarment of
24 an employer.

25 (f) Failure by a foreign national worker to comply with Section 4934(a) by failing to
26 attend an orientation session shall be grounds for cancellation of the identification
27 card and repatriation of the foreign national worker.

28 (g) Violation of Section 4937 by failing to provide notice of a reduction in force shall be
29 grounds for imposition of a fine in the employer of up to two thousand dollars
30 (\$2,000) for each foreign national worker terminated in the reduction in force and
31 debarment of the employer.

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- 1 (h) Violation of Section 4952 by failing to exit the Commonwealth as required by law
2 shall be grounds for repatriation and the imposition of a fine on the foreign national
3 worker of up to two thousand dollars (\$2,000).
- 4 (i) Violation of any subsection of section 4963 by an employer shall be grounds for the
5 denial of an application for an approved employment contract, voiding of an existing
6 approved employment contract, debarment of an employer, and a fine of up to two
7 thousand dollars (\$2,000) for each unlawful action.
- 8 (j) Violation of any subsection of Section 4963 by a foreign national worker shall be
9 grounds for repatriation and forfeiture of all claims by a foreign national worker for
10 money damages and other relief with respect to employment in the Commonwealth.
- 11 (k) Debarment of an employer shall apply to all business organizations for which that
12 employer serves as an officer, board member, partner, or limited liability corporation
13 member. Such business organizations shall be prohibited from hiring foreign national
14 workers on the same terms as the employer against whom the debarment was issued.
15 Debarment of an employer that is a business organization shall apply to all persons
16 who serve that business organization as an officer, board member, partner, or limited
17 liability corporation member.
- 18 (l) Failure after thirty (30) days from assessment to pay repatriation expenses for a
19 foreign national worker incurred by the Commonwealth shall be grounds for the
20 Attorney General to order the Division of Revenue and Taxation to deduct the full
21 amount of the repatriation costs and the full amount of the award from the employer's
22 NMTIT tax rebate.
- 23 (m) Failure by an employer to make prompt and reasonable efforts to repatriate a foreign
24 national worker, thereby allowing the worker to become an illegal resident of the
25 Commonwealth and subject to repatriation, shall be grounds for the Attorney General
26 to order the Division of Revenue and Taxation to deduct the full amount of the
27 anticipated repatriation costs from the employer's NMTIT tax rebate.
- 28 (n) Failure to comply with the payment terms of an administrative order, in addition to
29 any penalties or damages imposed in the order, shall be subject to additional
30 monetary sanctions of up to twenty-five (25) dollars per day until the obligation is
31 satisfied. Such additional penalties may be assessed as a sanction either by the

1 Administrative Hearing Office, or by the Commonwealth Superior Court pursuant to
2 a civil action filed by the Attorney General.

3 (o) Any fine pursuant to this section may be imposed by a hearing officer in an
4 administrative order or by a court in an action filed by the Attorney General.

5 (p) This section shall not stay or bar any civil or criminal action or remedy in any court
6 of competent jurisdiction.

7 **§ 4965. [Reserved]**

8 **§ 4966. No liability.**

9 The review and approval of any employment contract for a foreign national worker shall
10 not subject the Secretary, the Department, or the Commonwealth government to liability on
11 the employment contract, even if the approved employment contract does not comply with
12 the requirements of laws or regulations.

13 **§ 4967. Required records.**

14 An employer of any foreign national worker shall keep, and present immediately upon
15 demand by the Secretary or a designee, the following information:

16 (a) Personnel records for each foreign national worker including the name, current
17 residence address, age, domicile, citizenship, point of hire, and approved employment
18 contract termination date;

19 (b) Payroll records for each foreign national worker including the job classification;
20 wage rate or salary, number of hours worked each week, gross compensation,
21 itemized deductions, and net payments made biweekly;

22 (c) Documentation for each foreign national worker including police clearance, health
23 certificate, and tax payment records; and

24 (d) Business license and any other information or documentation required by regulations.

25 **§ 4968. Fees.**

26 (a) The Secretary shall establish fees for the administrative actions to be taken by the
27 Department under this Act. The Commonwealth government shall be exempted from
28 paying such fees.

29 (b) Fees imposed under subsection (a) for providing data not otherwise published by the
30 Department shall reflect, to the extent practicable, the full allocated cost of collecting,
31 storing, and delivering the data in usable form.

1 (c) All fees collected pursuant to subsection (a) of this section shall be deposited into a
2 fund to be known as the Foreign Worker Fee Fund. The Secretary shall be the
3 expenditure authority for this account. The Secretary of Finance shall collect the
4 funds and direct proceeds annually into four separate accounts as set forth below:

5 (1) Northern Marianas College Human Resources and Business Development
6 Account. Except as provided in subsections (c)(2)-(4), all of the fees collected
7 shall be placed into an account known as the Northern Marianas College Human
8 Resources and Business Development Account. This account shall be available
9 for legislative appropriation. An appropriation from this account shall be used
10 only to fund business, professional, or visitor industry programs conducted or
11 sponsored by the Northern Marianas College.

12 (2) Northern Marianas College U.S. Apprenticeship Program Account. Fifty percent
13 (50%) or a maximum of one million five hundred thousand dollars (\$1,500,000)
14 of fees collected shall be reserved for the Northern Marianas College U.S.
15 Apprenticeship Program Account. This program shall be administered and
16 coordinated by the Northern Marianas College. Funds shall be expended only for
17 the implementation and purposes of Public Law 15-5, and shall not be
18 commingled with other funds of the College. The president of the college shall
19 have expenditure authority for these funds.

20 (3) Tinian and Rota Account. Five percent (5%) or a maximum of seventy-five
21 thousand dollars (\$75,000) of fees collected shall be reserved for Tinian and five
22 percent (5%) or a maximum of seventy-five thousand dollars (\$75,000) of fees
23 collected shall be reserved for Rota which shall be used for youth employment
24 training programs on those islands. The mayors of Tinian and Rota shall have
25 expenditure authority for these funds.

26 (4) Department of Labor Account. Twenty-five percent (25%) or a maximum of five
27 hundred seventy-five thousand dollars (\$575,000) of fees collected shall be
28 reserved for the Department for use in administering and enforcing the provisions
29 of this part.

30 (d) All funds dedicated under 1 CMC §2282(a)(1) and (a)(2) shall be deposited in the
31 Technical Education Program unless otherwise provided by law.

1 **§ 4969. Statistical data.**

2 (a) The Secretary shall maintain statistical data with respect to the number of foreign
3 national workers employed in each of the relevant NAICS categories.

4 (b) The Secretary shall describe any special definitions used in these regards to account
5 for all employment of foreign national workers within the enumerated categories.

6 **§ 4970. Required reports.**

7 (a) The Secretary shall prepare and submit to the Governor and the presiding officers of
8 the Legislature the following written reports:

9 (1) Within one hundred twenty (120) days of the end of the government fiscal year,
10 the Secretary shall prepare an annual report including data regarding the number
11 of foreign national workers employed in the Commonwealth during the year, the
12 citizenship of the workers, the job classifications filled by the workers; data
13 regarding the number of citizens and permanent residents employed in the
14 Commonwealth during the year, the job classifications filled by these employees;
15 and other information as appropriate.

16 (2) Pursuant to Section 4526(c), the Secretary shall report any exemptions granted
17 within thirty (30) days after the close of each calendar quarter.

18 (3) Pursuant to Section 4527, the Secretary shall investigate and report in writing to
19 the Attorney General any death of a citizen or permanent resident employee as a
20 result of employment, or any injury of a citizen or permanent resident employee
21 as a result of employment which causes substantial physical or mental
22 impairment.

23 (4) Pursuant to Section 4924, the Secretary shall submit a yearly report on the status
24 of approved security contracts not later than thirty (30) days after the close of the
25 fiscal year. The report shall contain the number of approved security contracts
26 accepted in the fiscal year, the dollar limits of each approved security contract
27 arrangement accepted, and a list of any signatories to approved security contracts
28 in default.

29 (5) Pursuant to Section 4940, the Secretary shall investigate and report in writing to
30 the Attorney General any death of a foreign national worker as a result of

1 employment, or any injury to a foreign national worker as a result of employment
2 which causes substantial physical or mental impairment.

3 (b) Pursuant to section 4533, at least sixty (60) days prior to the beginning of each fiscal
4 year, any government entity employing foreign national workers shall prepare and
5 submit to the Governor and the presiding officers of the Legislature a report on the
6 progress of implementation of the manpower training and education plan together
7 with a funding request necessary to implement the plan.

8 (c) Pursuant to Section 4968(d), no later than ninety (90) days after the end of the fiscal
9 year:

10 (1) The Secretary of Finance shall prepare and submit to the Governor and the
11 presiding officers of the Legislature a report on the status of the Foreign Worker
12 Fee Fund;

13 (2) The president of the Northern Marianas College shall prepare and submit to the
14 Governor and the presiding officers of the Legislature a report on the expenditure
15 of such funds; and

16 (3) The mayors of Rota and Tinian shall prepare and submit to the Governor and the
17 presiding officers of the Legislature a report on the expenditure of such funds.

18 **§ 4971. Electronic filing and access.**

19 (a) The Secretary shall establish by regulation a plan for switching from hard copy filing
20 of documents to electronic filing of documents at the Department in order to reduce
21 paperwork and the cost of administration of the requirements with respect to foreign
22 national workers in the Commonwealth. Employers with one hundred (100) or more
23 employees shall be converted to electronic filing by 2010. Employers with more than
24 fifty (50) but fewer than one hundred (100) employees shall be converted to
25 electronic filing by 2012. Employers with fifty (50) or fewer employees shall be
26 converted to electronic filing as prescribed by regulations.

27 (b) The Secretary shall establish by regulation a plan for access via the Internet for
28 employers and foreign national workers to revised statutes and regulations,
29 announcements, notices, opinions and orders, and public data from the Department.
30 The plan shall also include secure access to data pertaining to individual employers or

1 foreign national workers for purposes of updating, correction, or supplementation of
2 the Department's records.

3 **§4972. Transition provisions.**

4 (a) Transition for employment contracts: Any employer employing foreign national
5 workers in the Commonwealth, and any foreign national worker within the
6 Commonwealth, shall comply fully with all provisions of this chapter, and no
7 contract, contract modification, renewal, or transfer shall be permitted except in full
8 compliance with this chapter.

9 (b) Transition exemptions for government employment.

10 (1) Public School System. Foreign language instructors may be exempted if they are
11 graduates of a college or university approved or accredited in accordance with the
12 Public School System Regulations on Employment of Certified Personnel.
13 Specialists in special education and pre-primary education may be exempted not
14 to exceed a total of 10 positions when required in order to comply with federal
15 law provided that the Public School System will first recruit for such positions in
16 Canada, England, Australia, and New Zealand. Persons exempted under this
17 subsection shall, prior to being issued an identification card, pass a teacher
18 certification test as designated by the Board of Education. This exemption shall
19 expire on September 30, 2010, and no contract may provide to the contrary.

20 (2) Department of Public Health.

21 (i) Nurses may be exempted if they are graduates of recognized colleges or
22 universities with a degree in nursing science and satisfy the professional
23 licensing requirements in their country of origin as well as satisfying the
24 licensing requirements established by the Commonwealth Board of Nursing
25 for Licensed Practical Nurse (LPN) or Registered Nurse (RN). Nurses
26 employed pursuant to this subsection shall meet all minimum requirements for
27 employment as provided by law, except that any minimum experience
28 requirement shall not apply to a foreign national worker who completed the
29 nursing education program at the Northern Marianas College or other
30 approved vocational nursing school in the Commonwealth, passed the

1 NCLEX exam, and is employed on or before December 31, 2009, in a nursing
2 position at the Department of Public Health.

3 (ii) Engineering technicians and allied health personnel such as lab technicians, x-
4 ray technicians, respiratory technicians, physical therapists, pharmacy
5 therapists and pharmacy specialists may be exempted if they are graduates of
6 recognized colleges and universities with a degree in their area of specialty in
7 their country of origin and shall have satisfied all of their country's
8 professional licensing and certification requirements in addition to satisfying,
9 if applicable, the licensure requirements established by the Commonwealth
10 Medical Professional Licensure Board.

11 (iii) The exemptions provided in subsections (b)(2)(i) and (ii) of this section shall
12 expire on September 30, 2017, for all positions covered thereunder, and no
13 contract may provide to the contrary.

14 (3) [Reserved]

15 (4) Northern Marianas College. Foreign language instructors and research scientists
16 at the Northern Marianas College may be exempted if they are graduates of
17 colleges or universities in the United States, or colleges or universities which are
18 accredited by United States accrediting associations, or, alternatively, if they have
19 earned degree(s) from colleges, universities, or institutions abroad that are
20 recognized by the Board of Regents and meet all other professional requirements
21 set by the Board of Regents. This exemption shall expire on September 30, 2010,
22 and no contract may provide to the contrary.

23 (5) [Reserved]

24 (c) [Reserved]

25 (d) Transition for owners of businesses. Persons who are not citizens or permanent
26 residents and whose first entry into the Commonwealth for purposes of employment
27 occurred on or before July 28, 1987, and who at the time of enactment of this chapter
28 have a financial interest in, operate, or engage in any business or are employing
29 others in the Commonwealth pursuant to a valid business license shall be granted a
30 transition period by the Department to qualify for entry under Chapter 9 of Division 5
31 of Title 4, or under other applicable provisions of Commonwealth law. The

1 Secretary, in consultation with the Department of Commerce, shall implement a
2 reasonable transition process and time period not to exceed two (2) years from the
3 effective date of this chapter. This subsection shall expire and automatically repeal
4 two years from the effective date of this chapter.

5 (e) Transition for notaries public. The Department of Commerce shall not renew the
6 license as a notary public of any person who is not a citizen or permanent resident
7 after January 1, 2009.

8 (f) [Reserved]

9 (g) Transition for regulations: The Secretary of Labor may implement regulations
10 pursuant to Section 4961(a) separately from the regulations of the Secretary of Public
11 Health. In the event that the Secretary of Public Health does not implement
12 regulations with respect to Section 4932 on medical insurance prior to the effective
13 date of this statute, the provisions of prior law with respect to the responsibility of
14 employers for the medical care of foreign national workers shall continue in full force
15 and effect until the effective date of such final regulations.

16 **§4973. Authorization of Appropriations.**

17 There is hereby authorized to be appropriated such sums as may be necessary to carry out
18 the provisions of this chapter.

19

20 (Added by the Immigration Conformity Act of 2010)

21 *Division 4 (Employment and Registration), Part 2 (Registration) shall be added, as follows:*

22

23 **PART 2. Registration.**

24 **CHAPTER 1. Registration.**

25 **§5001 Registration of aliens.**

26 (a) Every alien who remains in the Commonwealth longer than 90 days shall by
27 regulation be required to be registered. Registration shall be renewed annually.

28 The parents or legal guardians of aliens under the age of 18 are responsible for
29 such child's registration.

30 (b) Registration shall be conducted by the Department for all classes of aliens.

31 Registration information may be taken on oath or by declaration. Such

1 registration information as the Secretary may require is confidential and may be
2 made available only on request of law enforcement authorities in connection with
3 criminal or juvenile delinquency investigations.

4 (c) Registered aliens will be issued an identification card, which will contain the
5 name of the alien, the LIDS number, such identifying information as the Secretary
6 may require, and the expiration date of the card.

7 (d) Registered aliens 18 years old or older shall keep their identification card in their
8 personal possession or control at all times.

9 (e) Any alien who knowingly fails to comply with this section shall be guilty of a
10 misdemeanor and upon conviction shall be punished by imprisonment for not
11 more than 90 days, or fine of not more than \$500 or both.

12 (f) An alien, for purposes of this section, is any person who is not a citizen, national,
13 or permanent resident of the United States, or a CNMI permanent resident as
14 provided by Commonwealth law prior to April 23, 1981.

15
16 **Section 5. Global amendment.** All references to the term “non-resident worker” in
17 the Commonwealth Code shall be replaced by the term “foreign national worker” as defined
18 in Sections 4911 and 4965 of this Act. The term “resident worker” in 4 CMC §9502(b) shall
19 be replaced by the term “citizen or CNMI permanent resident or U.S. permanent resident”
20 worker as defined in Section 4511 of this Act.

21 **Section 6. Amendment.** Title 4 Section 5941 of the Commonwealth Code is
22 amended as follows:

23 **“5941. Long Term Business Certificate; conditions.**

24 (a) A holder of a long term business certificate is entitled to lawfully engage in business
25 in the Commonwealth for a period of two years; provided, however, that the holder
26 shall post \$25,000 to secure payment of claims made by the Commonwealth
27 government for taxes and government fees and penalties. The deposit shall be in the
28 form of a bond in the amount of \$25,000 issued by a surety company licensed to
29 transact business in the Commonwealth, and approved by the Commonwealth
30 Insurance Commissioner, naming the Secretary of the Department of Commerce as
31 the beneficiary. Such surety company shall be listed as acceptable for federal projects

1 by the United States Department of the Treasury or other surety companies having
2 positive capital/surplus as determined and approved by the Commonwealth Insurance
3 Commissioner. The Secretary of the Department of Commerce may, by regulation,
4 impose such other requirements as the Secretary may find reasonably necessary to
5 ensure the reliability and capability of such surety. The bond must run for a minimum
6 term of ~~two years~~ one year, renewable annually, must provide for a minimum of 30
7 days notice to the Secretary prior to its being cancelled, and must contain such other
8 terms that the Secretary, by regulation, deems necessary and proper.

9 No matter the type of security used for the deposit, the security shall not be
10 released until the alien investor provides the Secretary of the Department of
11 Commerce with a statement from the Department of Finance that all applicable taxes
12 and financial obligations to the CNMI Government are fully satisfied. The alien
13 investor must also publish the notice, in at least one daily newspaper distributed
14 throughout the Commonwealth, once a week for four consecutive weeks, that ~~he~~ the
15 investor has either ceased operation or has divested ~~himself of his~~ its interest ~~of his~~ in
16 the business in the Commonwealth and has applied to the Secretary of the
17 Department of Commerce for release of ~~his~~ the security deposit. Said notice must also
18 contain any details as prescribed by the Secretary of the Department of Commerce by
19 regulation, but, at a minimum, will apprise the Commonwealth government that the
20 security deposit shall be released unless a claim is served upon the Secretary of the
21 Department of Commerce within six months of the last publication of the notice
22 together with a copy of a complaint showing that a civil action has been filed in a
23 court of competent jurisdiction in the Commonwealth during said six month period. If
24 no claim is filed, or if the claim is for less than the entire security deposit, then the
25 excess shall be refunded to the alien investor. If a claim is filed, then the security
26 deposit, or remaining balance thereof, shall be transferred to the Clerk of Court and
27 shall be held by the same until the matter is finally resolved.

28 (b)-(d) Unchanged.”

29 **Section 7. Severability.** If any provision of this Act or the application of any such
30 provision to any person or circumstance should be held invalid by a court of competent

1 jurisdiction, the remainder of the Act or the application of its provisions to persons or
2 circumstances other than those to which it is held invalid shall not be affected thereby.

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

10 **Section 9. Effective date.** This Act shall take effect on January 1, 2008, upon its
11 approval by the Governor or becoming law without such approval. This Act shall have only
12 prospective application.

13

14 (Added by the Immigration Conformity Act of 2010)

15 **Section 9. Global amendment.** *The Commonwealth Code is amended to change the*
16 *term “Labor and Immigration Identification Data System” and the corresponding acronym*
17 *“LIIDS” to “Labor Information Data System” and the corresponding acronym “LIDS”*
18 *wherever they occur.*

19 **Section 10. Severability.** *If any provision of this Act or the application of any such*
20 *provision to any person or circumstance should be held invalid by a court of competent*
21 *jurisdiction, the remainder of the Act or the application of its provisions to persons or*
22 *circumstances other than those to which it is held invalid shall not be affected thereby.*

23 **Section 11. Savings clause.** *This Act and any repealer contained herein shall not be*
24 *construed as affecting any existing right acquired under contract or acquired under statutes*
25 *repealed or under any rule, regulation or order adopted under the statutes. Repealers*
26 *contained in this Act shall not affect any proceeding instituted under or pursuant to prior*
27 *law. The enactment of the Act shall not have the effect of terminating, or in any way*
28 *modifying, any liability, civil or criminal, which shall already be in existence on the date this*
29 *Act becomes effective.*

1 **Section 12. Effective date.** *This Act shall take effect upon its approval by the*
2 *Governor or becoming law without such approval and shall be retroactive to November 28,*
3 *2009 except as otherwise specifically provided herein.*