

Commonwealth of the Northern Mariana Islands
Office of the Governor

Capitol Hill, Saipan MP/USA 96950



The Honorable Juan S. Demapan
Senate President
Eighth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

and

The Honorable Thomas P. Villagomez
Speaker, House of Representatives
Eighth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear President Demapan and Speaker Villagomez:

Re: SB 8-4, Government Ethics Code Act of 1992

Today, I am proud to sign the Government Ethics Code into law. This law is long overdue and highly commendable. We need this law to protect our people and those of us who are entrusted with the destiny of our people who elevate us to high positions of responsibility. A Code of Ethics is like an insurance policy for our people. It protects them from graft, corruption and conflicts of interest. At the same time, it protects the honest appointed and elected officials from serious, unfounded allegations of corruption and wrongdoing.

Although some areas of this Code still need inclusion of stricter standards, after careful consideration, I am compelled by the necessity to sign the bill into law and to strongly stress our Administration's commitment to work together with both Houses of our Commonwealth Legislature to address seriously the following concerns.

We strongly recommend amendments to this new law which would provide more meaningful provisions for public disclosure of financial interests of persons who waive their privacy by choosing to be elected or appointed to public office. The amendments would be more effective if the defined "financial interest" were less than the \$5,000 as presently offered, and if disclosure of interests in publicly held corporations is required.

To satisfy the mandate, intent and purpose of Amendment 40 of our Commonwealth Constitution, a definition of a proper scope of debate in the Legislature, should be addressed. A need to more clearly delineate the areas of authority of the Public Auditor, Attorney General, the Judicial Branch and the internal sanctioning authority of our Commonwealth should also be considered.

The fines and sentences for incarceration should be appropriately increased as to be a deterrent for anyone tempted to stray from their sacred oath of office and violate this Code. This would also include prohibitions on nepotism and on public officials

doing business with the government. There should also be explicit language mandating the forfeiture of any gains wrongfully obtained in violation of this Act. The Act should be worded, as much as possible, in simple, clear language, to be easily understood by all.

Acting on this bill was a tough decision. I had to consider all factors; whether to veto the Act in order to strengthen its intent and purposes; whether to ask that it be recalled for more redrafting and changes; or, whether to approve what we have accomplished so far and continue to perfect it. I chose the latter, because this Act, with the above mentioned concerns which may subject this Code to criticism, is still a great step toward a more responsible government for the people of the Commonwealth.

Governor Guerrero and I are committed to work with you to strengthen this Act, to make this Code of Ethics more effective, and to accomplish its intent and purposes.

This Bill becomes Public Law No. 8-11.

Sincerely,



BENJAMIN T. MANGLONA
Acting Governor

CC: Governor
Special Assistant for Programs and Legislative Review

THE SENATE
EIGHTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE

SECOND REGULAR SESSION, 1992

PUBLIC LAW NO. 8-11
SENATE BILL NO. 8-4

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AN ACT

To establish a Government Code of Ethics for public officials, by
adding a new Part 4 to 1 CMC, Division 8; and for other purposes.

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Offered by Senator: Paul A. Manglona

DATE: January 14, 1992

SENATE ACTION

Referred to: Committee on Judiciary, Government and Law

Standing Committee Report No.: None

Second and Final Reading: June 18, 1992

Acceptance of House Amendments: December 9, 1992

HOUSE ACTION

Referred to: Committee on Judiciary and Governmental Operations

Standing Committee Report No. 8-21

First and Final Reading: November 10, 1992


EDWARD U. MARATITA
SENATE LEGISLATIVE SECRETARY

EIGHTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST REGULAR SESSION, 1992

SENATE BILL
NO. 8-4, H.D.1

AN ACT

To establish a Government Code of Ethics for public officials,
by adding a new Part 4 to 1 CMC, Division 8; and for other
purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:

1 Section 1. Amendment. 1 CMC, Division 8, is amended by adding a
2 new Part 4 to read as follows:

3 "PART 4.

4 GOVERNMENT CODE OF ETHICS

5 Chapter 1. Miscellaneous

6 Chapter 2. Financial Disclosure

7 Chapter 3. Conflict of Interest

8 Chapter 4. Gifts and Gratuities

9 Chapter 5. Duties of Public Auditor

10 Chapter 6. Penalties for Violation

11 CHAPTER 1. MISCELLANEOUS PROVISIONS

12 Section 8401. Short Title. This legislation may be referred to as the
13 "Government Ethics Code Act of 1992".

14 Section 8402. Findings and Purposes.

15 (a) It is declared by the people of the Commonwealth of the
16 Northern Mariana Islands that the purposes of this Part are:

17 (1) to assure that public officials in their official acts
18 are free of the influence of undisclosed private or business
19 interests;

20 (2) to develop public confidence in persons seeking or
21 holding public office, enhance the dignity of the offices and

1 make them attractive to citizens who are motivated to public
2 service;

3 (3) to develop accountability in government by
4 permitting public access to information necessary to judge
5 the credentials and performance of those who seek and hold
6 public office.

7 (b) The people of the Commonwealth of the Northern Mariana
8 Islands declare that:

9 (1) public office is a public trust that should be free
10 from the danger of conflict of interest;

11 (2) the public has the right to know of the financial
12 and business interest of persons who hold or seek public
13 office;

14 (3) reasonable disclosure requirements do not violate
15 an individual's right to privacy when the individual seeks or
16 holds public office and a compelling public interest in the
17 disclosure exists; and

18 (4) reasonable disclosure requirements do not have the
19 effect of restraining the right of a qualified person to seek or
20 hold public office.

21 Section 8403. Intent. Article II, Section 15 of the Commonwealth
22 Constitution requires the legislature to enact a comprehensive code of
23 conduct for its members. Article III, Section 6 requires the legislature to
24 enact a code of conduct for the Governor, lieutenant governor and heads of
25 executive departments "that includes a requirement of disclosure of
26 financial or personal interests sufficient to prevent conflict of interest in
27 performance of official duties." In accordance with the mandate of
28 Amendment 40 of the 1985 Second Marianas Constitutional Convention,
29 Section 15 of Article II and Section 6 of Article III of the Northern
30 Marianas Constitution, the Legislature hereby enacts a comprehensive code
31 of conduct for all elected officials and appointed employees and officers of

1 the Commonwealth Government and its political subdivisions, including
2 members of boards, commissions and other instrumentalities.

3 Section 8-404. Definitions. As used in this Act:

4 (a) "Administrative action" means a decision on, or proposal,
5 consideration, enactment or making of any rule, regulation, or other
6 official non-ministerial action or non-action by any executive
7 department, or by any public official or public employee of an
8 executive department, or any matter which is within the official
9 jurisdiction of the executive branch.

10 (b) "Commonwealth government" means any administrative
11 unit, board, commission, committee, department, division, executive
12 branch, independent agency, judiciary, legislature, political
13 subdivision, public corporation, or public school system of the
14 Commonwealth.

15 (c) "Compensation" means money, thing of value or other
16 pecuniary benefit received or to be received in return for, or as
17 reimbursement for, services rendered or to be rendered.

18 (d) "Doing business" means any one or any combination of
19 sales, purchases, leases or contracts to, from, or with the
20 Commonwealth or any Commonwealth agency in an amount in
21 excess of \$5,000 in any twelve consecutive months.

22 (e) "Expenditure" means a payment, distribution, loan
23 advance, deposit, or gift of money or anything of value.

24 (f) "Financial interest" means:

25 (1) any interest as a result of which the owner
26 currently receives or is entitled to receive in the future more
27 than \$5000 per year;

28 (2) any interest with a cost or present value of \$5,000 or
29 more; or

30 (3) any interest representing more than 10% of a
31 corporation, partnership, sole proprietorship, firm,
32 enterprise, franchise, organization, holding company, joint

1 stock company, receivership, trust, or any legal entity
2 organization for profit; provided, however, financial interest
3 shall not include:

4 (A) any interest of the spouse of an official or
5 employee which interest is related to the spouse's
6 independent occupation, profession or employment;

7 (B) any ownership through purchase at fair
8 market value or inheritance of less than 1% of the
9 shares of a corporation, or any corporate subsidiary,
10 parent or affiliate thereof, regardless of the value of or
11 dividends on such shares, if such shares are registered
12 on a securities exchange pursuant to the Securities
13 Exchange Act of 1934, as amended;

14 (C) the authorized compensation paid to a public
15 official or public employee for his office or
16 employment;

17 (D) any economic benefit provided equally to all
18 residents of the Commonwealth;

19 (E) a time or demand deposit in a financial
20 institution;

21 (F) an endowment or insurance policy or
22 annuity contract purchased from an insurance
23 company.

24 (g) "Gift" means a payment or enrichment to the extent that
25 consideration of equal or greater value is not received. The term
26 includes a rebate or discount in the price of anything of value
27 unless the rebate or discount is made in the ordinary course of
28 business to a member of the public without regard to that person's
29 status as a candidate. The term does not include the following:

30 (1) Informational material such as books, reports,
31 pamphlets, calendars, or periodicals.

32 (2) A gift that:

(A) is not used; and

(B) no later than thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for tax purposes.

(3) A gift from an individual's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin or the spouse of that individual, if the donor is not acting as the agent or intermediary for someone other than a person covered by this paragraph.

(4) A devise or inheritance.

(5) A personalized plaque or trophy with a value that does not exceed five hundred dollars (\$500).

(6) A campaign contribution required to be reported under this Act.

(h) "Immediate family" means an unemancipated child residing in a candidate's household, a spouse of a candidate, or an individual claimed by that candidate or that candidate's spouse as a dependent for tax purposes.

(i) "Loan" means a transfer of money, property, or anything of value in exchange for an obligation, conditional or not, to repay in whole or in part.

(j) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

(k) "Public employee" means an individual who is an appointed employee of the Commonwealth Government, whether part-time or full-time.

(l) "Public official" means any person holding any elected office of the Commonwealth or any appointed, non-employee

member of the Commonwealth government, including members of boards, commissions, and task forces.

(m) "Relative" means a person who is related to an official or employee as spouse or as any of the following, whether by blood or by adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister, half-brother or half-sister.

CHAPTER 2. FINANCIAL DISCLOSURE.

Section 8411. Statement of Financial Interests.

(a) For purposes of this chapter, the following persons shall be referred to as "reporting individuals":

(1) each elected Commonwealth official; and

(2) each appointed Commonwealth official and judicial officer; and

(3) each Commonwealth public employee who receives additional compensation either for professional services rendered to, or as an independent contractor for, the Commonwealth government.

(b) Each reporting individual shall file by May 1 each year a verified written statement of financial interests in accordance with the provisions of this chapter, unless he or she has already filed a statement in that calendar year.

(c) A statement of financial interests shall also be filed by the following:

(1) an elected Commonwealth official at the time of taking his or her oath of office;

(2) a person whose appointment to office is subject to confirmation by the legislature at the time when his or her name is submitted to the legislature for consideration;

(3) any other person at the time he or she becomes a reporting individual.

(d) No appointed Commonwealth official or public employee shall be allowed to take the oath of office or enter or continue his or her duties, nor shall receive compensation from the Commonwealth, unless he or she has filed a statement of financial interests with the Public Auditor as required by this Chapter.

Section 8-12. Content of Statement. Statements of financial interests shall contain the following information:

(a) The name, address, and type of any professional, business or other organization (other than the Commonwealth Government) in which the reporting individual was an officer, director, associate, partner, proprietor or employee, or served in any advisory capacity, and from which any income in excess of \$2,500 was derived during the preceding calendar year;

(b) The nature of any professional, business or other services rendered by the reporting individual and the name and nature of the person (other than the Commonwealth government) to whom or to which such services were rendered if, during the preceding calendar year:

(1) compensation in excess of \$5,000 was received for professional services by the reporting individual and

(2) the person was doing business with the Commonwealth;

(c) The identity of any capital asset, including the address or legal description of real estate, from which the reporting individual realized a capital gain of \$5,000 or more in the preceding calendar year other than the sale of the reporting individual's principal place of residence;

(d) The name of any unit of government, other than the Commonwealth, which employed the reporting individual during the preceding calendar year;

(e) The name of any person from whom the reporting individual received during the preceding calendar year one or more

1 gifts or honoraria having an aggregate value in excess of \$500, but
2 not including gifts from relatives;

3 (f) The name and instrument of ownership in any person
4 conducting business in the Commonwealth, in which the reporting
5 individual had a financial interest during the preceding calendar
6 year. Ownership interest in publicly held corporations need not be
7 disclosed.

8 (g) The identity of any financial interest in real estate located
9 in the Commonwealth, other than the principal place of residence of
10 the reporting individual, and the address or, if none, the legal
11 descriptions of the real estate, including all forms of direct or
12 indirect ownership such as partnerships or trusts of which the
13 corpus consists primarily of real estate.

14 (h) The name of, and the nature of the Commonwealth action
15 requested by, any person who has applied to the Commonwealth for
16 any license or franchise, or any permit for annexation, zoning or
17 rezoning of real estate during the preceding calendar year if the
18 reporting individual had a financial interest in such person;

19 (i) The name of any person doing business with the
20 Commonwealth in relation to which person the reporting individual
21 had a financial interest during the preceding calendar year, and the
22 title or description of any position held by the reporting individual
23 in such person;

24 (j) The name and instrument of debt of all debts in excess of
25 \$5,000 owed by the reporting individual, as well as the name and
26 instrument of debt of all debts in excess of \$5,000 owed to the
27 reporting individual, but only if the creditor or debtor, respectively,
28 or any guarantor of the debt, has done work for or business with the
29 Commonwealth in the preceding calendar year. Debt instruments
30 issued by financial institutions whose normal business includes the
31 making of loans of the kind received by the reporting individual,
32 and which are made at the prevailing rate of interest and other

terms and conditions standard for such loans at the time the debt was contracted, need not be disclosed; except that debt instruments issued by the Commonwealth Development Authority must be disclosed. Debt instruments issued by publicly held corporations, and purchased by the reporting individual on the open market at the price available to the public, need not be disclosed.

Section 8413. Form for Statement of Financial Interests. The statement of financial interests required to be filed with the Public Auditor shall be completed by typewriting or hand printing, and shall be verified, dated, and signed by the reporting individual personally. It shall be submitted on a form prescribed by the Public Auditor.

Section 8414. Filing of Statement.

(a) Not later than February 1 of each year, the Director of Finance shall certify to the Public Auditor a list (current as of the prior January 1) of the names and mailing addresses of the persons described in Section 8411 who are required to file a statement of financial interests. In preparing this list, the Director of Finance shall set out the names in alphabetical order and shall file a copy of the list with the Public Auditor. Not less than 30 days before the due date for filing statements of financial interests, the Director of Finance shall certify to the Public Auditor a supplemental list of those persons described in Section 8411 who, since the February 1 certification, are required to file a statement of financial interests. The supplemental list shall be in the same form and be filed in the same manner as the original list certified to the Public Auditor.

(b) Not later than March 1 of each year, the Public Auditor shall in writing notify all persons required to file statements of financial interests under this Chapter. Notice shall be by personal delivery or mail. The Public Auditor may effect personal delivery of such notices by delivering the notices to the various departments and public corporation heads of the Commonwealth for distribution to public employees. Department and public corporation heads shall

1 notify the Public Auditor of those public employees who have not
2 been served with such notice by April 1. The Public Auditor shall
3 then take appropriate steps to notify such persons by mail of the
4 filing requirements. Public employees shall be notified by mail at
5 the last known address for them appearing in Commonwealth
6 records.

7 (c) The Public Auditor shall deliver a receipt to each person
8 who files a statement under this Chapter, indicating that the person
9 has filed such statement and the date of such filing.

10 (d) All statements of financial interests shall become the
11 property of the Public Auditor and shall be kept strictly confidential
12 unless the person required to file a statement of financial interest
13 has given the Public Auditor prior written approval to make such
14 information available to the general public. Notwithstanding the
15 foregoing, the Public Auditor shall make the statement of financial
16 interests of those persons seeking elective government office
17 available to the Board of Elections upon written request. The Public
18 Auditor shall also make the statement of financial interests of those
19 persons whose appointments require legislative approval available
20 to the legislative body responsible for such matters upon written
21 request. All requests for a statement of financial interest shall
22 contain the name, address and phone number of the requestor and
23 the reason for the request. A separate written request must be
24 received for each statement of financial interests requested.
25 Requests for the examination or duplication of a statement of
26 financial interests shall be filled as soon as is practicable.

27 The Public Auditor shall promptly notify each person
28 required to file a statement of financial interests of each
29 examination or duplication of his statement by sending to such
30 person a copy of the written request. Costs of duplicating the
31 statement of financial interests shall be paid by the person
32 requesting duplication.

(e) No person shall use for any commercial purpose information contained or copied from statements of financial interests required to be filed by this section or from lists compiled from such statements.

Section 8-4.15. Failure to File Statement by Deadline.

(a) If any person who is required to file a statement of financial interest by May 1 of any year fails to file such a statement, the Public Auditor shall, by May 15, notify such person by certified mail of his failure to file by the specified date. Such person shall file his or her statement on or before May 31. Failure to file by May 31 shall constitute a violation of this section, except as provided in subsection (c).

(b) Any person who first becomes subject to the requirement to file a statement of financial interests within 30 days prior to May 1 of any year shall be notified at that time by the appointing or employing authority of the obligation to file and shall file his or her statement at any time on or before May 31 without penalty. The appointing or employing authority shall notify the Public Auditor of the identity of such persons. If such person fails to file such statement by May 31, the Public Auditor shall, within 7 days after May 31, notify such person by certified mail of his or her failure to file by the specified date. Such persons shall file the statement of financial interests on or before June 15 with the Public Auditor. Failure to file by June 15 shall constitute a violation of this section, except as provided in subsection (c).

(c) Any person who is required to file a statement of financial interests may effect one thirty-day extension of time for filing the statement by filing with the Public Auditor, not less than 10 days before the date on which the statement is due, a declaration of his or her intention to defer the filing of the statement. Failure to file by that date shall constitute a violation of the chapter. A declaration for

extension must be accompanied by a \$50 fee payable to the Commonwealth Government.

Section 8-416. Blind Trusts.

(a) A public official may transfer all or a portion of the official's personal assets to a blind trust for the duration of service in public office. The original assets placed in the blind trust shall be listed by the official in the statement of financial interests. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this Section:

(1) assets transferred to the trust shall be marketable;

(2) the trustee shall be a bank or other institutional fiduciary;

(3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;

(4) information regarding the identity and nature of its assets shall be confidential from the trustor for the duration of the trust;

(5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter.

Section 8-417. Penalty for Willful Violation of Disclosure Requirements.

(a) A person required to file a report of financial interests who refuses or knowingly fails to disclose required information within the time required, or who provides false or misleading information, knowing it to be false or misleading, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000, or by imprisonment for a period of not more than six months, or by both.

(b) Any nominated, hired, or appointed official, commissioner, chairman or member of a commissions or boards who fails or refuses to comply with the requirements of this chapter, in addition to the penalties prescribed, shall not be confirmed by the legislature if compliance has not been made.

Section 8418. Failure to Report by Department, Division, or Deputy Department Heads. A person hired or appointed as the head or deputy head of, or director of a department in the executive branch who refuses or fails to file a report of financial interests required under this chapter when due may not hold office, and the person's name may not be submitted to the legislature for confirmation until the person files such report. Such person shall not be confirmed, hired, or appointed, and shall not be paid any salary, per diem, or travel expenses until the person complies. If, after installation as the head or deputy head of, or director of a department, the person refuses or fails to file the required statement when due, the person is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000 and shall be removed from office if compliance is not made within 30 days after the due date of the report.

Section 8419. Failure to Report by a Commission or Board Chairman or Member. A person hired or appointed as a commissioner, chairman or member of a Commonwealth commission or board who fails to file a statement of financial interests when due may not hold office, and the person's name shall not be submitted to the legislature for confirmation until the person complies. The person shall not be confirmed, and the person forfeits and shall not be paid any salary, per diem or travel expenses until the person complies. If, after being seated as a commissioner, chairman, or member of such a commission or board the person refuses or fails to file the required statement when due, the person is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000 and shall be removed from office if compliance is not made within 30 days after the due date.

1 Section 8420. Report of Financial Interest of Legislators. Each
2 legislator shall file a statement of financial interests. A legislator who
3 refuses or fails to file the report when due forfeits, and shall not be paid
4 salary, per diem, or travel expenses after the due date until compliance and
5 is guilty of a misdemeanor and upon conviction is punishable by a fine of
6 not less than \$500 nor more than \$1,000.

7 Section 8421. Report of Financial Interests of Governor and
8 Lieutenant Governor. The governor and lieutenant governor shall each
9 file a statement of financial interests required by this chapter. If the
10 governor or lieutenant governor fails to file the statement when due,
11 salary, per diem, and travel expenses after the due date are forfeited and
12 shall not be paid until compliance, and the person is guilty of a
13 misdemeanor and upon conviction is punishable by a fine of not less than
14 \$500 nor more than \$1,000.

15 Section 8422. Civil Penalty: Late Filing of Required Statement. A
16 person who fails to file a properly completed and verified statement within
17 the time required by this Section 8415 is subject to a civil penalty of not
18 more than \$10 a day for each day the delinquency continues as the Public
19 Auditor determines subject to appeal to the Commonwealth Superior Court.
20 An affidavit stating facts in mitigation may be submitted to the Public
21 Auditor by a person against whom a civil penalty is assessed. However, the
22 imposition of the penalties prescribed in this section or in Sections 8417-
23 8421 does not excuse that person from filing reports required by this
24 chapter.

25 Section 8423. The statute of limitations for bringing an
26 administrative or judicial action pursuant to the Chapter shall be five
27 years.

28 CHAPTER 3. CONFLICT OF INTEREST

29 Section 8431. Use of Office, Staff or Employees of Public Office. A
30 public official or public employee shall not use the public official or public
31 employee's office, staff or employees of the public official or public

employee's office to give the public official or public employee or any other person unwarranted privilege, including the following:

(a) Seeking employment or contracts for goods or services.

(b) Conducting private business activities or activities for private financial gain.

(c) Endorsing or assisting a political party or a candidate for elective office.

(d) Soliciting campaign support or assistance, including money or votes, for a political party or a candidate for elective office.

Section 8-432. Restraints on Use of Public Position to Obtain Private Benefit.

(a) A public official or public employee shall not use or attempt to use the public position to obtain private financial gain, contract, employment, license, or other personal or private advantage, direct or indirect, for the public official or public employee, for a relative, or for an entity in which the public official or employee has a present or potential economic interest.

(b) A public official or public employee, or a former public official or former public employee, shall not disclose or use for the public official or employee, or a former public official or former public employee's own economic benefit, or that of another person, confidential information acquired by the public position or employment that is not generally available to the public.

Section 8-433. Restraints on Use of Public Position to Obtain Benefits for Business or Social Acquaintances.

(a) A public official or public employee shall not participate in a transaction involving the public official or employee's governmental entity:

(1) in a manner or under circumstances that the public official or public employee knows or reasonably should know

that the public official or public employee's participation in the transaction may substantially influence the transaction;

(2) the public official or public employee has actual knowledge that a person with whom the public official or employee has a familial, personal, financial, or other non-business relationship has a substantial economic interest in the transaction.

(b) In addition to any other penalty provided in this Act, a transaction entered into in violation of subsection (1) of this Section may be canceled or rescinded by the Public Auditor upon its finding that:

(1) a violation occurred;

(2) the violation substantially influenced the transaction;

(3) the public interest would be served; and

(4) the cancellation or rescission may be accomplished in a manner that would not adversely affect the interests of an innocent third party.

Section 8-434. Restraints on Use of Public Facilities, Supplies, Services, Time, and Personnel for Campaign Activities.

(a) A public official or public employee shall not use public funds, time, personnel, facilities, or equipment for the public official or public employee's private gain or that of another unless the use is authorized by law.

(b) A public official or public employee shall not use public funds, time, personnel, facilities, or equipment for political or campaign activity unless the use is:

(1) authorized by law; or

(2) properly incidental to another activity required or authorized by law.

(c) The Public Auditor may adopt rules specifying examples of political or campaign activity permissible or not permissible under this section.

Section 8435. Restraints on Votes, Deliberations, and Discussions.

(a) A public official shall not participate in, vote on, influence, or attempt to influence an official decision if the public official or business with which the public official is associated has:

(1) a pecuniary interest in; or

(2) a potential benefit from; the matter under consideration by the governmental entity of which the public official is a member. A potential benefit includes detriment to a business competitor, to the public official, or business with which the public official is associated.

(b) Except as permitted in subdivision (c) of this Section, a public official described by this subdivision, but not exempt, shall abstain from participation in the discussion and vote on the decision. The public official's abstention and the reason for the abstention must be recorded in the governmental entity's minutes.

(c) A public official may participate in, vote on, or influence or attempt to influence an official decision if the only pecuniary interest or potential benefit that may accrue to the public official is incidental to the public official's position, or which accrues to the public official as a member of a profession, occupation, or large class, to no greater extent than the pecuniary interest or potential benefit could reasonably be expected to accrue to all other members of the profession, occupation, or large class.

Section 8436. Appearance as an Advocate.

(a) A non-elected public official or public employee shall not appear as the advocate of another person before a Commonwealth governmental entity.

(b) A public official or public employee may appear in an advocacy role before a Commonwealth governmental entity on behalf of:

(1) the public official or public employee in the public official or employee's personal capacity;

(2) a member of the public official's immediate family;
or

(3) the governmental entity that is the public official or public employee's principal employer.

(c) This section does not limit a public official or public employee from appearing before a Commonwealth governmental entity on a purely ministerial matter which does not require discretion on the part of the governmental entity.

Section 8437. Appearance as an Attorney.

(a) A public official or public employee shall not appear as an attorney for another person before a Commonwealth governmental entity.

(b) A public official or public employee may appear in an advocacy role before a Commonwealth governmental entity on behalf of:

(1) the public official or public employee in the public official or public employee's personal capacity;

(2) a member of the public official's immediate family;
or

(3) the government entity that is the public official or public employee's principal employer.

(c) This section does not limit a public official or employee from appearing as an attorney before a governmental entity on a purely ministerial matter which does not require discretion on the part of the Commonwealth governmental entity.

1 Section 8438. Representation for a Former Client. A public official
2 or public employee shall not provide formal or informal representation for
3 a client, constituent, or other person whom the public official or public
4 employee has represented for a fee or other consideration in a matter
5 within the preceding twelve (12) months.

6 Section 8439. Partnership with a Person who Provides
7 Representation Before Government. A public official or public employee
8 shall not have a formal or informal business partnership with a person
9 who provides representation before a Commonwealth governmental entity
10 for a fee or other consideration.

11 Section 8440. Use of an Agent to Perform Prohibited Acts. A public
12 official or public employee shall not authorize or request another person to
13 perform an act on the public official or employee's behalf that the public
14 official or employee is prohibited from performing under this chapter.

15 Section 8441. Representation by a Public Member of a Board,
16 Commission, or Council.

17 (a) A public member of a board, commission, or council may
18 represent a client or constituent before a Commonwealth
19 governmental entity if the member files a disclosure statement with
20 the agency and with the board, commission, or council on which the
21 member serves stating the services rendered.

22 (b) A public member of a board, commission, or council is not
23 required to file a disclosure statement for representation on a purely
24 ministerial matter that does not require discretion by the
25 governmental entity.

26 Section 8442. Restraint from Deliberation Where Contract Conflict is
27 Present. A public official or public employee shall not participate in
28 obtaining or granting a public contract in which the official or employee
29 or a member of the official or employee's immediate family has a direct or
30 indirect interest unless the contract is available on the same terms to the
31 general public or a broad class of persons.

32 Section 8443. Post-Employment Restrictions.

(a) No former public official or public employee shall assist or represent any person other than the Commonwealth in any judicial, legislative, or administrative proceeding involving the Commonwealth or any of its agencies, if the official or employee participated personally and substantially in the proceeding during his term of public office or public employment.

(b) No former public official or public employee shall, for a period of one year after the termination of the official's or employee's term of public office or public employment, assist or represent any person in any business transaction involving the Commonwealth, if the official or employee participated personally and substantially in the subject matter of the transaction during his term of public legal authority with respect to a contract this prohibition shall be permanent as to that contract.

Section 8444. Negotiating for Non-government Employment. A public official or public employee of Commonwealth government may not participate through discussion, decision, approval, disapproval, recommendation, the rendering of advice, or otherwise, in a proceeding, application, request for ruling or other determination, contract, claim, hearing, controversy, investigation, charge, accusation, arrest, any process of legislation, or other matter, the outcome of which will have an effect on the financial interests of an individual or an organization with whom the public official or public employee is discussing, negotiating for, or has an agreement or arrangement for employment, by contract, retainer, or otherwise.

Section 8445. The statute of limitations for bringing an administrative or judicial action pursuant to this Chapter shall be five years.

CHAPTER 4. GIFTS AND GRATUITIES

Section 8450. Offering, Receiving and Soliciting Gifts, Favors.

1 (a) No person shall give to any public official or public
2 employee, or to the spouse or minor child of either of them, and
3 none of them shall solicit or accept, any anonymous gift.

4 (b) No person shall give or offer to give to any public official,
5 judicial officer, employee, or Commonwealth contractor, or to the
6 spouse or minor child of any of them, and none of them shall accept,
7 anything of value, including, but not limited to, a gift, favor or
8 promise of future employment, based upon any explicit or implicit
9 mutual understanding, that the votes, official actions, decisions or
10 judgments of any official, employee, or Commonwealth contractor
11 concerning the business of the Commonwealth would be influenced
12 thereby. It shall be presumed that a non-monetary gift having a
13 value of less than \$50 does not involve such an understanding.

14 (c) No person who has an economic interest in a specific
15 Commonwealth business, service or regulatory transaction shall
16 give, directly or indirectly, to any Commonwealth judicial officer or
17 public employee whose decision or action may substantially affect
18 such transaction, or to the spouse or minor child of such official or
19 employee, and none of them shall accept, any gift of:

20 (1) cash or its equivalent regardless of value, or

21 (2) an item or service other than an occasional one of
22 nominal value (less than \$50); provided however, nothing
23 herein shall be construed to prohibit such person from
24 accepting gifts from relatives.

25 (d) A public official or public employee, or a member of the
26 immediate family or a business associate of a public official or public
27 employee, shall not solicit or accept anything of value, or the
28 promise or offer of anything of value, from:

29 (1) a person regulated by or providing goods or
30 services to, the government entity that the public official or
31 public employee serves;

1 (2) a person who has offered, or expressed an intention
2 to provide travel expenses, goods or services to any member of
3 a government entity that the public official or public
4 employee serves; or

5 (3) a person who was regulated by, or provided goods
6 and services to, the government entity that the public official
7 or public employee serves, when circumstances show that the
8 thing of value was promised or offered to or received by the
9 public official within one year after the termination of a
10 relationship between the person and the government entity.

11 (e) Except as prohibited in subsections (a) and (b), nothing in
12 this section shall prohibit any person from giving or receiving:

13 (1) an award publicly presented in recognition of
14 public service;

15 (2) commercially reasonable loans made in the
16 ordinary course of the lender's business;

17 (3) political contributions, provided they are reported
18 to the extent required by law;

19 (4) reasonable hosting, including travel and expenses,
20 entertainment, meals or refreshments furnished in
21 connection with public events, appearances or ceremonies
22 related to official Commonwealth business, if furnished by the
23 sponsor of such a public event.

24 (f) Evidence of local custom or tradition regarding gift-giving
25 shall be considered by the finder of fact in determining a violation.

26 (g) Any gift given in violation of the provisions of this
27 section shall be turned over to the Director of Finance, who shall add
28 the gift to the inventory of Commonwealth property.

29 (h) Nothing in this section shall prohibit any official or
30 employee, or his or her spouse or minor child, from accepting a gift
31 on the Commonwealth's behalf, provided, however, the person
32 accepting the gift shall promptly report receipt of the gift to the

Public Auditor and to the Director of Finance, who shall add it to the inventory of Commonwealth property.

Section 8451. Solicitation or Receipt of Money for Advice or Assistance. No public official or public employee, or the spouse or minor child of said official or employee, shall solicit or accept any money or other thing of value including, but not limited to, gifts, favors, services or promises of future employment, in return for advice or assistance on matters concerning the operation or business of the Commonwealth; except, however, that nothing in this section shall prevent a public official or public employee or the spouse of a public official or public employee from accepting compensation for services wholly unrelated to the official's or employee's Commonwealth duties and responsibilities and rendered as part of his or her non-Commonwealth employment, occupation or profession.

Section 8452. Restrictions on Acceptance of Honoraria.

(a) A public official or public employee shall not accept an honorarium of more than one thousand dollars (\$1,000), excluding amounts for actual travel and subsistence expenses for the public official or employee, for a speech or article, or honoraria aggregating more than ten thousand dollars (\$10,000) in a calendar year.

(b) A public official or public employee shall not accept an honorarium for a speech or article unless the subject matter of the speech or article is unrelated to the subject of the public official or public employee's responsibilities.

(c) If an honorarium payable to a public official or public employee is paid instead at the public official or employee's request to a charitable organization selected by the payor from a list of five (5) or more charitable organizations provided by the public official or public employee, the public official or public employee has not, for the purposes of this section, accepted the honorarium.

1 Section 8453. The statute of limitations for bringing an
2 administrative or judicial action pursuant to this Chapter shall be five
3 years.

4 CHAPTER 5. POWERS AND DUTIES OF PUBLIC AUDITOR

5 Section 8461. Powers and Duties. In addition to other powers and
6 duties specifically mentioned in this chapter, the Public Auditor shall have
7 the following powers and duties:

8 (a) To initiate and to receive complaints of violations of any of
9 the provisions of this chapter and to investigate and act upon any
10 such complaints as provided by this chapter. If the Public Auditor
11 receives a complaint alleging a violation or other misconduct by a
12 public official or a public employee of the Legislature, the Public
13 Auditor shall, within two days after receipt thereof, transmit a copy
14 of such complaint to the standing committee of the Legislature
15 having jurisdiction over such complaints;

16 (b) To conduct investigations, inquiries, and hearings
17 concerning any matter covered by this chapter, subject to the
18 limitation expressed in the preceding subsection, and to certify its
19 own acts and records. In the process of investigating complaints of
20 violations of this chapter, the Public Auditor may request a subpoena
21 in accordance with Commonwealth law. The Public Auditor may
22 exercise appropriate discretion in determining whether to
23 investigate and whether to act upon any particular complaint or
24 conduct. If the Public Auditor decides not to investigate, the reasons
25 for that decision must be stated as a written report. When the Public
26 Auditor determines that assistance is needed in conducting
27 investigations, or when required by law, the Public Auditor shall
28 request the assistance of other appropriate Commonwealth
29 governmental entities;

30 (c) To require the cooperation of Commonwealth
31 governmental entities, officials, employees and other persons whose
32 conduct is regulated by this chapter, in investigating alleged

violations of this chapter. Information reasonably related to an investigation shall be made available to the Public Auditor by such persons on written request;

(d) To consult with Commonwealth governmental entities, officials and employees on matters involving ethical conduct;

(e) To recommend such legislative action as it may deem appropriate to effectuate the policy of this chapter;

(f) To conduct research in the field of governmental ethics and to carry out such educational programs as it deems necessary to effectuate the policy and purpose of this chapter;

(g) To promulgate rules and regulations for the conduct of the Public Auditor, including procedural rules consistent with the requirements of due process of law;

(h) To prescribe forms for the disclosure and registration of information as provided in this chapter;

(i) To prepare and publish an annual report summarizing the Public Auditor's activities and to present such report to the Governor and the Legislature;

(j) To render advisory opinions with respect to the provisions of this chapter based upon a real or hypothetical set of circumstances, when requested in writing by a public official or public employee, or by a person who is personally and directly involved. Advisory opinions shall be made available to the public, but the identity of the person requesting the opinion and of any person whose conduct is involved in the set of circumstances described in the request for opinion, shall be confidential.

Section 8462. Action on Complaints or Investigations.

(a) Prior to the conclusion of an investigation, the Public Auditor shall give the person under investigation notice of the substance of the complaint and an opportunity to present such written information as the person may desire, including the names

of any witnesses the person wishes to have interviewed by the Public Auditor.

(b) At the conclusion of an investigation, the Public Auditor shall prepare a written report including a summary of his or her investigation, a complete transcript of any proceeding including, but not limited to any testimony heard by the Public Auditor, and including recommendations for such administrative or legal action as it deems appropriate. If the Public Auditor determines that the complaint is not sustained, he or she shall so state in its report and so notify the person investigated and any other person whom the Public Auditor has informed of the investigation. If the person investigated is a public employee and the Public Auditor finds that corrective action should be taken, the Public Auditor shall send its report to the head of the public entity in which the employee works. If the person investigated is a department head or appointed official, and the Public Auditor finds that corrective action should be taken, the Public Auditor shall send its report to the Governor. If the person investigated is a Legislative employee, and the Public Auditor finds that corrective action should be taken, the Public Auditor shall send its report to the legislator for whom the employee works. If the person investigated is an elected official, the Public Auditor shall send his or her report to that official and to the Governor. If the person investigated is the Governor or Lieutenant Governor, and the Public Auditor finds that corrective action should be taken, the Public Auditor shall make its report public. A person to whom the Public Auditor has transmitted a recommendation for action shall, within 30 days of receipt of the recommendation, report to the Public Auditor in writing the actions taken on the recommendation and, to the extent that the person declines to take any recommended action, provide a statement of reasons for his decision.

Nothing in this section shall preclude the Public Auditor from notifying a person, prior to or during an investigation, that a

1 complaint against him or her is pending and, where appropriate,
2 recommending to him or her corrective action; provided, however,
3 that any such notification and recommendation shall be made in
4 writing and a copy thereof shall be transmitted contemporaneously
5 by the Public Auditor to the Governor.

6 Section 8463. Confidentiality. Complaints to the Public Auditor and
7 investigations and recommendations thereon shall be confidential, except
8 as necessary to carry out powers and duties of the Public Auditor or to
9 enable another person or agency to consider and act upon the notices and
10 recommendations of the Public Auditor; provided that, without identifying
11 the person complained against or the specific transaction, the Public
12 Auditor may:

13 (a) comment publicly on the disposition of its requests and
14 recommendations and

15 (b) publish summary opinions to inform government
16 personnel and the public regarding the interpretation of certain
17 provisions of this Act.

18 Section 8464. The statute of limitations for bringing administrative
19 or judicial action pursuant to this Chapter shall be five years.

20 CHAPTER 6. PENALTIES FOR VIOLATION

21 Section 8471. Sanctions.

22 (a) Any employee found to have violated any of the provisions
23 of this chapter, or to have furnished false or misleading information
24 to the Public Auditor with the intent to mislead, shall be subject to
25 employment sanctions, including discharge, in accordance with
26 procedures under which the employee may otherwise be disciplined.
27 Any official who intentionally files a false or misleading statement
28 of financial interests, or knowingly fails to file a statement within
29 the time prescribed in this chapter, or otherwise violates any
30 provision of this chapter, shall be subject to removal from office.

31 (b) Any non-elected official, employee, or government
32 contractor who fails to provide documents or information requested

by the Public Auditor under Section 8456.1 shall be subject to employment sanctions, removal from office, or cancellation of contract rights.

Section 8472. Judicial Penalties. Any person found by a court to be guilty of knowingly violating any of the provisions of this chapter or of furnishing false, misleading or incomplete information to the Public Auditor with the intent to mislead, upon conviction thereof shall be punished by a fine of no more than \$500 for any one offense.

Section 8473. Invalid Actions. All Commonwealth contracts shall include a provision requiring compliance with this chapter. Any contract negotiated, entered into, or performed in violation of any of the provisions of this chapter shall be voidable as to the Commonwealth. Any permit, license, ruling determination, or other official action of a Commonwealth governmental entity applied for or in any other manner sought, obtained or undertaken in violation of any of the provisions of this chapter shall be invalid and without any force or effect whatsoever.

Section 8474. The statute of limitations for bringing an administrative or judicial action pursuant to this Chapter shall be five years.

Section 8475. Other Remedies. Nothing in this chapter shall preclude the Commonwealth from maintaining an action for an accounting for any pecuniary benefit received by any person in violation of this chapter or other law, or to recover damages for violation of this chapter.

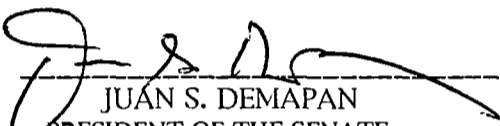
Section 8476. Relationship to other laws. The procedures and penalties provided in this chapter are supplemental and do not limit either the power of the Legislature to discipline its own members or the power of any other Commonwealth governmental agency to otherwise discipline officials or employees or to take appropriate administrative action or to adopt more restrictive rules. Nothing in this chapter is intended to repeal or is to be construed as repealing in any way the provisions of any other law or ordinance.

Section 8477. Sanctions Applicable to Public Auditor. The Public Auditor who knowingly violates Sections 8463 and 8414 shall be subject to the penalties indicated in Section 8472."

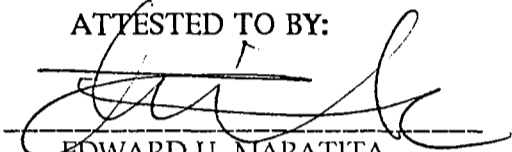
Section 2. Severability. If any portion of this Act is held invalid by a court of competent jurisdiction, such holding shall not affect the remaining portions of this Act.

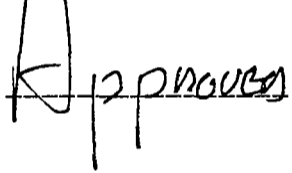
Section 3. Effective Date. This Act shall take effect upon its approval by the governor or after its becoming law without such approval.


CERTIFIED BY:

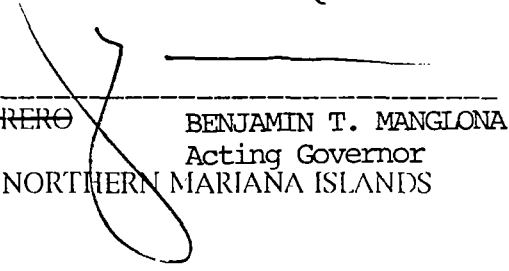

JUAN S. DEMAPAN
PRESIDENT OF THE SENATE

ATTESTED TO BY:


EDWARD U. MARATITA
SENATE LEGISLATIVE SECRETARY

 Approved this 22nd day of JANUARY, 1992³


LORENZO I. DE LEON GUERRERO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS


BENJAMIN T. MANGLONA
Acting Governor