

FIRST REGULAR SESSION,

A BILL FOR AN ACT

To establish a probate law for the Commonwealth of the Northern Mariana Islands.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Purpose. The Legislature finds that it is essential to provide  
 2 an orderly procedure for the disposition of personal property of deceased persons  
 3 who have died without leaving a written will.

4 Section 2. Saving clause. No action or proceeding commenced before this Act  
 5 takes effect, and no right accrued, is affected by its provisions, but the  
 6 proceedings therein must conform to the requirements of this Act as far as  
 7 applicable.

8 Section 3. Estates of deceased persons. If a resident of the Commonwealth  
 9 of the Northern Mariana Islands dies without a written will, his or her personal  
 10 property may be disposed of as provided herein.

11 Section 4. Petition. A petition for letters of administration must be in  
 12 writing and signed by the applicant or his counsel and filed with the clerk of the  
 13 court and must state:

- 14 1. The jurisdictional facts.
- 15 2. The names, ages, and residences of the heirs of the decedent, so  
 16 far as known to the applicant.
- 17 3. The character and estimated value of the personal property of the  
 18 deceased.

19 No defect of form or in the statement of jurisdictional facts actually existing  
 20 shall make void an order appointing an administrator or any of the subsequent  
 21 proceedings.

22 Section 5. Who may petition. No person is competent to resident of the  
 23 Commonwealth of the Northern Mariana Islands.

24 Section 6. Surviving partner. The surviving partner of a decedent must not  
 25 be appointed administrator of the estate if any person interested in the estate

1 objects to his appointment.

2 Section 7. Order of priority of right to letters. Administration of the  
3 estate of a person dying intestate must be granted to one or more of the following  
4 persons who are entitled to letters in the following order, the relatives of the  
5 decedent being entitled to priority only when they are entitled to succeed to the  
6 estate or some portion thereof:

- 7 1. The surviving spouse, or some competent person whom he or she may  
8 request to have appointed.
- 9 2. The children
- 10 3. The grandchildren
- 11 4. The parents
- 12 5. The brothers and sisters
- 13 6. The next of kin entitled to share in the estate.
- 14 7. The relatives of a previously deceased spouse, when entitled to  
15 succeed to some portion of the estate.
- 16 8. The creditors
- 17 9. Any person legally competent.

18 Section 8. Whole blood and half blood. Of several persons claiming and  
19 equally entitled to administer, relatives of the whole blood are preferred to  
20 those of the half blood.

21 Section 9. Discretion of Court; creditors. When there are several persons  
22 equally entitled to administer, the court may grant letters to one or more of  
23 them; and when a creditor is claiming letters, the court, in its discretion, at  
24 the request of another creditor, may grant letters to any person legally competent.

25 Section 10. Minors. If a person otherwise entitled to administer is a minor

---

1 or an incompetent person, letters may be granted to his or her guardian, or any  
2 other person entitled to letters, in the discretion of the court.

3 Section 11. Procedure before hearing. The clerk should accept the petition  
4 for filing and set hearing by the court. Petitioners shall give notice thereof  
5 to each known heir of the decedent, either actual or constructive. Such notice  
6 must be given at least ten (10) days before the hearing.

7 Section 12. Contest. Any person interested may contest the petition by  
8 filing written grounds of opposition thereto, based on the incompetency of the  
9 applicant or for other cause, or may assert his own right to letters. In the  
10 latter case he must file a petition and give the notice required for an original  
11 petition and the court must hear the two petitions together.

12 Section 13. Facts to be proved. Before letters are granted, the fact of  
13 death and that the decedent died intestate, and that notice has been given as  
14 above required, must be proved by the evidence of the applicant or others; and  
15 the court may also examine any other person concerning the time, place and  
16 manner of death, the place of the decedent's residence at the time, the character  
17 and value of his property, and whether or not the decedent left any will, and may  
18 compel any person to attend as a witness for that purpose.

19 Section 14. Prior claimants for letters. When letters of administration  
20 have been granted to any person other than the surviving spouse, child, parent,  
21 brother, or sister of the intestate, any one of them is competent and had a prior  
22 right to letters, or any competent person at the written request of any one of  
23 them who is competent and had such prior right, may obtain the revocation of  
24 the letters, and be entitled to the administration, by filing a petition praying  
25 the revocation, and that letters of administration issue to him.

---

1       Section 15. Discretion of Court. The court, in its discretion, may refuse  
2 to grant letters of administration as provided in this Act to any person or to  
3 the nominee of any person who had actual notice of the first application and an  
4 opportunity to contest the same.

5       Section 16. Inventory filing and contents. Within three (3) months after  
6 his appointment, or within such further time as the court for reasonable cause  
7 may allow, the executor or administrator must file a complete inventory of the  
8 assets in the estate.

9       Section 17. Affidavit of Publication. The person who gives the notices  
10 shall not have any claim or interest in or to the estate of decedent, shall be at  
11 least twenty-one (21) years of age and shall, within thirty (30) days from the  
12 date of the posting of the said notices, file an affidavit with the clerk of the  
13 court stating the date of the posting and the places where posted. In cases  
14 where notice to creditors by publication in a newspaper is ordered by the court,  
15 the managing editor of such with the clerk of the court an inventory or  
16 appraisal of the personal property in the estate of the decedent which has  
17 come to his possession or knowledge.

18       Section 18. The executor or administrator must take and subscribe an oath  
19 that the inventory contains a true statement of all the estate of the decedent  
20 which has come to his possession or knowledge, and particularly of all money  
21 belonging to the decedent, and of all just claims of the decedent against the  
22 affidavit. The oath must be endorsed upon or annexed to the inventory.

23       Section 19. Notice to creditors. The executor or administrator, promptly  
24 after letters are issued, must give public notice to creditors requesting all  
25 persons having claims against the decedent to file them, with the necessary

1 vouchers in the office of the clerk of the court, or to present them, with the  
2 necessary vouchers, to the executor or administrator, at his residence or place  
3 of business, to be specified in the notice, within thirty (30) days after the  
4 first publication of the notice. In estates of the value of more than one  
5 thousand five hundred dollars (\$1,500.00), notice must be given by publication  
6 in a newspaper of general circulation in the Commonwealth in three (3)  
7 consecutive issues of such newspaper. Newspaper shall file, within a period of  
8 ten (10) days from the date of the final publication of said notice, in  
9 affidavit of publication with the clerk of court, attaching to said affidavit  
10 a copy of such publication.

11 Section 20. Filing Claims. If the executor or administrator neglects to  
12 give notice promptly, the court may summarily revoke his letters and appoint  
13 some other person in his stead. If the executor or administrator dies, resigns,  
14 or is removed after the publication has been completed but before the time to  
15 file or present claims has expired, the time to file or present claims is not  
16 extended. In such case, the claimant may file his claim with the clerk of the  
17 court or present it to the new executor or administrator at the latter's  
18 residence or place of business.

19 Section 21. Failure to file affidavit of publication. In the event  
20 affidavit of publication is not filed within the time prescribed herein after the  
21 posting of notices, the time to file or present claims shall be extended for a  
22 period equal to the period of default in the filing of such affidavit, unless  
23 it be proved that publication was, in fact, made in the manner provided. In  
24 such case, the court shall make a finding in the final decree of distribution to  
25 the effect that publication was made and the manner thereof.

1 Section 22. Fees for ordinary proceedings; extraordinary. Attorneys for  
2 executors and administrators shall be allowed out of the estate, as fees for  
3 conducting the ordinary probate proceedings based upon time spent pursuing the  
4 matters connected with the estate. Such further allowances may be made deem  
5 just and reasonable for any extraordinary services.

6 Section 23. Effective Date. This Act shall take effect upon its approval  
7 by the Governor, or upon its becoming law without such approval.

Date: Jan. 27, 1982

Introduced by: \_\_\_\_\_

Rep. Miguel M. Sabian

The block contains several handwritten signatures. The most prominent one is a large, stylized signature that appears to be 'Miguel M. Sabian', written in dark ink. Below it are several other smaller, less legible signatures, some of which appear to be initials or names of other individuals involved in the process.



# Commonwealth of the Northern Mariana Islands

COMMONWEALTH TRIAL COURT  
SAIPAN, NORTHERN MARIANA ISLANDS 96950

TELEPHONES: 6961  
6245  
6201

June 3, 1982

Hon. Jesus A. Sonoda  
Chairman, Judiciary and Governmental  
Operations Committee  
Northern Marianas Commonwealth  
Legislature  
Saipan, Mariana Islands 96950

Dear Representative Sonoda:

Re: House Bill 79; Probate Statute

Your committee forwarded a copy of House Bill 79 for the comments of Chief Judge Robert A. Hefner. Judge Hefner is on leave and will not return prior to the public hearing on this bill which is now scheduled for Tuesday, June 8, 1982. I have taken the liberty of commenting in Judge Hefner's absence.

I was encouraged to learn that the attention of the House has been drawn to still another area in which our laws are insufficient. In recent years many problems have arisen because of the lack of a law directing the manner of intestate succession. War claims awards led to family disputes that were disruptive of the close family relationships that form an important part of this society. Unfortunately, House Bill 79 does not address the problems that were so apparent during the period of War Claims awards. This bill merely prescribes a procedure for the processing of decedents estates.

When the court last undertook the revision of its rules it added, through the rule making power, a full set of probate rules known as the Commonwealth Trial Court Rules of Probate Procedures. In comparing the existing rules with the bill I find that the rules are more comprehensive and easier to understand. We would gain nothing by the enactment of the bill.

The bill has a number of provisions that puzzle those of us who work in the law. For example, why does Section 3 limit the application of the law to personal property? What is the meaning of Section 5? In addition, a number of other inconsistencies have been detected as well as grammatical errors. I will reserve comment on these fine points at the present time.

Hon. Jesus A. Sonoda  
June 3, 1982  
Page 2

In conclusion, I call your attention to Article III of the Rules of Probate Procedures to be found on Page 6 of those rules. This Article includes Rules 14 through 23 and it appears to do everything that the bill was intended to accomplish. What we really need is your consideration of the substantive issue of intestate distribution which is, who gets the property when a person dies without a will rather than who serves as administrator of the estate.

Very truly yours,



Herbert D. Soll  
Associate Judge