

JGO COMM.

A BILL FOR AN ACT

To establish a consent procedure by which the Government of the Northern Mariana Islands can modify the Covenant as contemplated under Section 105 of the Covenant.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This title may be cited as the  
2 Covenant Modification Consent Procedure Act of 1984.

3 Section 2. Procedure for Grant of Consent by the Government  
4 of the Northern Mariana Islands under Section 105 of the Covenant  
5 to Establish a Commonwealth of the Northern Mariana Islands in  
6 Political Union with the United States.

7 (a) The consent of the Government of the Northern  
8 Mariana Islands to any modification of the Covenant to Establish  
9 a Commonwealth of the Northern Mariana Islands in Political Union  
10 with the United States of America, as required under Section 105  
11 of the Covenant, shall not be valid unless consent is given  
12 through legislative or popular initiative procedure in the same  
13 manner as that required for constitutional amendments by Article  
14 XVIII, Sections 3, 4, and 5 of the Commonwealth Constitution.

15 (b) The Government of the Northern Mariana Islands may  
16 grant its consent at any time before, during, or after the  
17 Government of the United States grants its consent. If the  
18 Government of the Northern Mariana Islands grants its consent  
19 prior to the granting of consent by the Government of the United  
20

1 States, the Government of the United States shall have seven  
2 years in which to grant its consent.

3 (c) The Government of the Northern Mariana Islands shall not  
4 comply with any modification of the Covenant made without the  
5 mutual consent required by this act.

6 Section 3. Effective Date. This Act shall take effect upon its  
7 approval by the Governor, or upon its becoming law without such  
8 approval.

9 Date: 5/17/84

10 Introduced by: *Blingher*

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25



*House of Representatives*

FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. Box 586  
Saipan, Mariana Islands 96950

Phone: 6195/6284/6618

**SPEAKER**

Vicente M. Sablan

**VICE SPEAKER**

Juan B. Tudela

**FLOOR LEADER**

Pedro T. Nakatsukasa

**SAIPAN & ISLANDS NORTH**

Jose C. Cabrera  
Benigno R. Fitial  
Ignacio DLG. Demapan  
Juan DLG. Demapan  
Juan T. Guerrero  
Pedro R. Guerrero  
Jose R. Lifoifoi  
Pedro T. Nakatsukasa  
Benigno M. Sablan  
Gregorio C. Sablan  
Vicente M. Sablan  
Juan S. Torres  
Juan B. Tudela

**TINIAN & AGUIGUAN**

Francisco T. Cabrera

**ROTA**

Victor B. Hocog

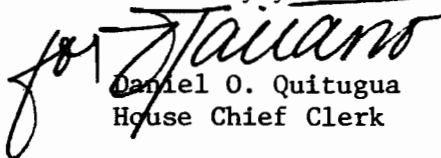
September 9, 1985

The Honorable Ponciano C. Rasa  
President of the Senate  
Fourth Northern Marianas Commonwealth  
Legislature  
Saipan, CM 96950

Dear President Rasa:

I am honored to transmitt herewith House Bill No. 97, HD1, entitled, "A Bill for an Act to establish a consent procedure by which the Government of the Northern Mariana Islands can modify the Covenant as contemplated under Section 105 of the "Covenant".", which the House of Representatives passed on First and Second Reading, March 27, 1985, by a majority vote of the members, a quorum being present, Fourth Northern Marianas Commonwealth Legislature, Seventh Special Session, 1985.

Sincerely yours,

  
Daniel O. Quitugua  
House Chief Clerk

Attachment



House of Representatives

FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

P.O. Box 586  
Saipan, Mariana Islands 96950

Phone: 6195/6284/6618

COMMITTEE ON JUDICIARY & GOVERNMENTAL OPERATIONS

CHAIRMAN  
Benigno M. Sablan  
VICE CHAIRMAN  
Pedro T. Nakatsukasa  
MEMBERS:  
Juan S. Torres  
Juan T. Guerrero  
Benigno R. Fitial  
Gregorio C. Sablan  
Pedro R. Guerrero

ADOPTED - 3/12/85

STANDING COMMITTEE REPORT NO. 4-68  
MARCH 12, 1985  
RE: HOUSE BILL NO. 97, H.D. 1

The Honorable Vicente M. Sablan  
Speaker  
House of Representatives  
Fourth Northern Marianas  
Commonwealth Legislature  
Saipan, CM 96950

PASSED 1ST ~~READING~~ READING  
3/12/85  
SECOND READING  
3/27/85

Dear Mr. Speaker:

Your House Committee on Judiciary and Governmental Operations, to which was referred House Bill No. 97 entitled:

"To establish a consent procedure by which the Government of the Northern Mariana Islands can modify the Covenant as contemplated under Section 105 of the Covenant."

begs leave to report as follows:

I. Recommendation:

Pursuant to extensive discussion and debate, your Committee on Judiciary and Governmental Operations recommends that House Bill No. 97 be passed as amended by your Committee.

II. Analysis:

A. Purpose.

House Bill No. 97 provides for a procedure by which the Government of the Northern Mariana Islands can express its position on the matter of whether or not the United States Congress may modify the fundamental provisions of the Covenant under Section 105.

MARCH 12, 1985

RE: HOUSE BILL NO. 97, A.O. 1

PAGE 2

B. Committee's Findings

Your Committee's findings are as follows:

1. Covenant Section 105 is one of the many sections that define the political relationship between the Northern Mariana Islands and the United States of America. Section 105 authorizes the U.S. Congress to enact legislation that can be made applicable to the Northern Mariana Islands. However, the Section also provides that the U.S. Congress cannot enact legislation that modifies the "fundamental provisions" of the Covenant absent a grant of consent by the Government of the Northern Mariana Islands. At present the Government has no procedural mechanism by which it could convey that consent to the U.S. Government. House Bill No. 97 provides for this procedural mechanism.

2. It is of utmost importance that a consent procedure, such as House Bill No. 97, be enacted. Without a procedure such as House Bill No. 97, the Governor's signature on a letter might be interpreted by the United States as a grant of CNMI consent to a modification of a fundamental provision of the Covenant. There must be a framework for approval of the results of 1985 Covenant consultations in the event an agreement is reached which modifies fundamental provisions of the Covenant. The U.S. negotiators and Government should be made aware immediately that any fundamental modifications agreed to by the CNMI negotiators must be approved by the CNMI people at a referendum.

3. The consent procedure provided in House Bill No. 97 is an efficient and sure method of acquiring a Commonwealth consensus position on any issue concerning the modification of a fundamental provision of the Covenant. It is the feeling of your Committee that the Covenant is as important a document as the Constitution. Therefore, the bill requires that the consent of the Government of the Northern Mariana Islands be given by legislative initiative or by popular initiative in a manner similar to that required for consent to constitutional amendments under Article 18, Sections 3, 4, and 5 of the Commonwealth Constitution.

C. Public Comment.

The list of discussion on House Bill No. 97 include the following items of correspondence:

1. Letter dated April 25, 1983 from Daniel H. MacMeekin, Northern Mariana Islands Commission on Federal Law, to Jose Dela Cruz, Liaison Attorney, Northern Mariana Islands Commission on Federal Laws, regarding mutual consent under the Covenant.

2. Letter dated May 6, 1983 from Jose Dela Cruz, Liaison Attorney Northern Mariana Islands Commission on Federal Laws, to Donald C. Woodworth, Senate Legislative Counsel, regarding mutual consent under the Covenant.

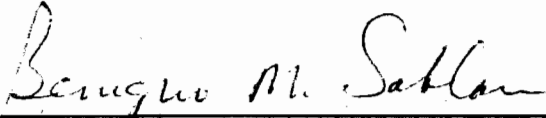
D. Legislative History

House Bill No. 97 passed the House of Representatives in the Third Legislature in a similar form as House Bill No. 308. (See House Standing Committee Report 3-151.) The Senate took no action upon it for 4½ months, and it expired in January 1984 with the end of the Third Legislature.

III. Conclusion:

Your Committee is in accord with the intent and purpose of House Bill No. 97 and recommends its passage on First and Second Reading as amended.

Respectfully submitted,



Rep. Benigno M. Sablan, Chairman


Rep. Pedro T. Nakatsukasa, V-Chairman

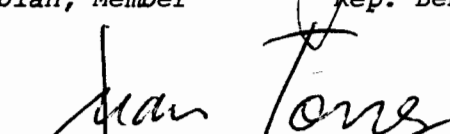


Rep. Juan T. Guerrero (Pan), Member

Rep. Pedro R. Guerrero, Member

Rep. Gregorio C. Sablan, Member

  
Rep. Benigno R. Fitial, Member

  
Rep. Juan S. Torres, Member

SEVENTH SPECIAL SESSION, 1984

## A BILL FOR AN ACT

To establish a consent procedure by which the Government of the Northern Mariana Islands can modify the Covenant as contemplated under Section 105 of the "Covenant".

BE IT ENACTED BY THE FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This title may be cited as the Covenant  
2 Modification Consent Procedure Act of 1985.

3 Section 2. Procedure for Grant of Consent by the Government of the  
4 Northern Mariana Islands under Section 105 of the Covenant to Establish a  
5 Commonwealth of the Northern Mariana Islands in Political Union with the  
6 United States.

7 (a) The consent of the Government of the Northern Mariana  
8 Islands to any modification of the Covenant to Establish a  
9 Commonwealth of the Northern Mariana Islands in Political Union  
10 with the United States of America, as required under Section 105  
11 of the Covenant, shall not be valid unless consent is given through  
12 legislative or popular initiative procedure in the same manner as  
13 that required for constitutional amendments by Article XVIII,  
14 Sections 3, 4, and 5 of the Commonwealth Constitution.

15 (b) The Government of the Northern Mariana Islands may grant  
16 its consent at any time before, during, or after the Government of  
17 the United States grants its consent. If the Government of the  
18 Northern Mariana Islands grants consent prior to the granting of  
19 consent of the Government of the United States, the Government of  
20 the United States shall have two years in which to grant its  
21 consent.

1           (c) The Government of the Northern Mariana Islands shall  
2           not comply with any modification of the Covenant made without  
3           the mutual consent required by this act.

4           Section 3. Effective Date. This act shall take effect upon its  
5           approval by the Governor, or upon its becoming law without such approval.

Date: 5/17/84

Introduced by: Rep. Benigno R. Fitial

Don W

Northern Mariana Islands Commission on Federal Laws Washington, D.C. 20240 (202) 343-5817

LOCAL ADDRESS: P. O. Box 326 Saipan, CM 96950

James A. Joseph  
Chair and  
Commissioner

Pedro A. Tenorio  
Vice-Chair and  
Commissioner

Jesus C. Borja  
Commissioner

Hon. Phillip Burton  
Commissioner

Agnes M. McPhetres  
Commissioner

Edward DLG. Pangelinan  
Commissioner

Myron E. Thompson  
Commissioner

Daniel H. MacMeekin  
Executive Director

May 6, 1983

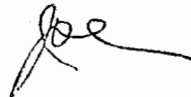
Donald C. Woodworth, Esq.  
Senate Legislative Counsel  
The Senate  
Third Commonwealth Legislature  
P. O. Box 129  
Saipan, CM 96950

Dear Don:

Dan MacMeekin recently wrote me regarding the subject of establishing a mechanism for granting the consent of the Government of the Northern Mariana Islands contemplated under section 105 of the Covenant. Several weeks ago you suggested that I ask Dan for his suggestion regarding the matter. Rather than paraphrasing Dan, I am enclosing a copy of Dan's memo to me and the legislative language he suggested.

I gather Attorney General Peter Esser and House Counsel Joel Bergsma would be interested in this matter. I am, therefore, providing them copies of this letter with the same enclosure.

Sincerely,



Jose S. Dela Cruz  
Liaison Attorney

lv

Enclosure

xc: Attorney General Peter Van Name Esser  
w/enclosure  
Joel Bergsma, Esq. w/enclosure

Memorandum

APR 25 1983.

To: Jose Dela Cruz  
From: Daniel H. MacKeekin *DH*  
Subject: Mutual Consent under the Covenant

Reference: Your memo April 14, 1983, "Commission Recommendation on the Federal Immigration Laws"

The discussion of a mechanism for granting the consent of the Government of the Northern Mariana Islands contemplated under section 105 of the Covenant was originally in the context of possible changes in the immigration laws. But I think the consensus ultimately was that such a mechanism should be developed for use across the board. Since the Commission's immigration recommendations will be part of our second interim report to Congress and since one or more recommendations in that report might recommend modification of federal laws subject to the mutual consent requirement, it might be best to utilize whatever consent mechanism is adopted to support the second interim report generally (assuming that the Northern Mariana Islands desires to give such support). At this point, I do not see anything in the Commission's immigration recommendations or in any of our other recommendations that requires formal consent by the Northern Mariana Islands.

Nonetheless, I agree that it would be useful to spell out in advance exactly what constitutes the consent of the Northern Mariana Islands for purposes of section 105 of the Covenant. I suggest that the legislature enact a law something like this:

Procedure for grant of consent by the Government of the Northern Mariana Islands under section 105 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States.  
The consent of the Government of the Northern Mariana Islands to any modification of Articles I, II, or III or sections 501 or 805 of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as required by section 105 of that Covenant, may not be given except by a joint resolution of the Legislature of the Northern Mariana Islands approved by the Governor of the Northern Mariana Islands in accordance with the provisions for approval of legislation by the Governor set forth in Article II, Section 7, of the Constitution of the Northern Mariana Islands.

*Rec'd 5/4/83 JSDC*

The language could, of course, be altered to reflect however the Northern Mariana Islands wants to structure the granting of its consent. I think the important point is to have the procedure set out by statute, so that no one will be able to claim, for example, that a letter from the Governor constitutes the consent of the Northern Mariana Islands.