

A BILL FOR AN ACT

To implement mandatory medical insurance for employees within the Commonwealth of the Northern Mariana Islands; and for other purposes.

BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Short Title. This Act may be cited as the "Commonwealth Mandatory
2 Health Care Act of 1999."

3 Section 2. Findings and Purpose. The cost of medical care in case of sudden
4 need may consume all or an excessive part of a person's resources. Prepaid health care
5 plans offer a certain measure of protection against such emergencies. It is the purpose of
6 this act in view of the spiraling cost of comprehensive medical care to provide this type
7 of protection for the employees in the Commonwealth of the Northern Mariana Islands.
8 Although a large segment of the labor force in the Commonwealth already enjoys
9 coverage of this type either by virtue of employer-sponsored plans, or individual
10 initiative, there is a need to extend that protection to workers who at present do not
11 possess any or possess only inadequate prepayment coverage. This Act shall not be
12 construed to interfere with or diminish any protection already provided pursuant to
13 employer-sponsored plans that is more favorable to the employees benefited thereby than
14 the protection provided by this Act or at least equivalent thereto, collective bargaining
15 agreements shall not be affected by the provisions of this section.

16 Section 3. Definitions Generally. As used in this act, unless the context clearly
17 requires otherwise:

18 (1) "Department" means the Department of Commerce.

19 (2) "Secretary" means the Secretary of Commerce.

20 (3) "Employer" means any individual or type of organization, including any
21 partnership, association, trust, estate, joint stock company, insurance
22 company, or corporation, whether domestic or foreign, a debtor in
23 possession or receiver or trustee in bankruptcy, or the legal representative

1 of a deceased person, who has one or more regular employees in the
2 employer's employment. "Employer" does not include:

- 3 (A) The Commonwealth, any of its political subdivisions, or any
4 instrumentality of the Commonwealth or its political subdivisions;
- 5 (B) The CNMI government or any instrumentality of the CNMI;
- 6 (C) Any other Commonwealth or political subdivision thereof or
7 instrumentality of such Commonwealth or political subdivision;
- 8 (D) Any foreign government or instrumentality wholly owned by a
9 foreign government, if (i) the service performed in its employ is of

10 a character similar to that performed in foreign countries by
11 employees of the United States government or of an
12 instrumentality thereof, and (ii) the United States Secretary of State
13 has certified or certifies to the United States Secretary of the
14 Treasury that the foreign government, with respect to whose
15 instrumentality exemption is claimed, grants an equivalent
16 exemption with respect to similar service performed in the foreign
17 country by employees of the United States government and of
18 instrumentalities thereof.

19 (4) "Employment" means service, including service in interstate commerce,
20 performed for wages under any contract of hire, written or oral, expressed
21 or implied, with an employer, except as otherwise provided in Sections
22 4 and 5.

23 (5) "Premium" means the amount payable to a prepaid health care plan
24 contractor as consideration for the contractor's obligations under a prepaid
25 health care plan.

26 (6) "Prepaid health care plan" means any agreement by which any prepaid
27 health care plan contractor undertakes in consideration of a stipulated
28 premium:

29 (A) Either to furnish health care, including hospitalization, surgery,
30 medical or nursing care, drugs or other restorative appliances,
31 subject to, if at all, only a nominal per service charge; or

32 (B) To defray or reimburse, in whole or in part, the expenses of health
33 care.

34 (7) "Prepaid health care plan contractor" means:

1 (A) Any medical group or organization which undertakes under a
2 prepaid health care plan to provide health care; or

3 (B) Any nonprofit organization which undertakes under a prepaid
4 health care plan to defray or reimburse in whole or in part the
5 expenses of health care; or

6 (C) Any insurer who undertakes under a prepaid health care plan to
7 defray or reimburse in whole or in part the expenses of health care.

8 (8) "Regular employee" means a person employed in the employment of any
9 one employer for at least twenty hours per week but does not include a
10 person employed in seasonal employment. "Seasonal employment" for the
11 purposes of this paragraph means employment in a seasonal pursuit or
12 employment by an employer engaged in the cultivating, harvesting,
13 processing, canning, and warehousing of pineapple during its seasonal
14 periods. The director by rule and regulation may determine the kind of
15 employment that constitutes seasonal employment.

16 (9) "Wages" means all remuneration for services from whatever source,
17 including commissions, bonuses, and tips and gratuities paid directly to
18 any individual by a customer of the individual's employer, and the cash
19 value of all remuneration in any medium other than cash. The director
20 may issue regulations for the reasonable determination of the cash value of
21 remuneration in any medium other than cash. If the employee does not
22 account to the employee's employer for the tips and gratuities received
23 and is engaged in an occupation in which the employee customarily and
24 regularly receives more than \$20 a month in tips, the combined amount
25 received by the employee from the employee's employer and from tips
26 shall be deemed to be at least equal to the wage required by chapter 387 or
27 a greater sum as determined by regulation of the director.

28 Section 4. Place of Performance. "Employment" includes an individual's entire
29 service, performed within or both within and without this Commonwealth if:

30 (1) The service is localized in this Commonwealth; or

31 (2) The service is not localized in any state but some of the service is
32 performed in this Commonwealth and

1 (A) The individual's base of operation, or, if there is no base of
2 operation, the place from which such service is directed or
3 controlled, is in the Commonwealth; or

4 (B) The individual's base of operation or place from which the service
5 is directed or controlled is not in any Commonwealth in which
6 some part of he service is performed but the individual's residence
7 is in this Commonwealth.

8 Section 5. Excluded Services. "Employment" as defined in Section 3 does not
9 include the following services:

10 (1) Service performed by an individual in the employ of an employer who, by
11 the laws of the Commonwealth, is responsible for care and cost in
12 connection with such service.

13 (2) Service performed by an individual in the employ of the individual's
14 spouse, son, or daughter, and service performed by an individual under the
15 age of twenty-one in the employ of the individual's father or mother.

16 (3) Service performed in the employ of a voluntary employee's beneficiary
17 association providing for the payment of life, sick, accident, or other
18 benefits to the members of the association or their dependents or their
19 designated beneficiaries, if

20 (A) Admission to membership in the association is limited to
21 individuals who are officers or employees of the Commonwealth
22 government, and

23 (B) No part of the net earnings of the association inures (other than
24 through such payments) to the benefits of any private shareholder
25 or individual.

26 (4) Service performed by an individual for an employer as an insurance agent
27 or as an insurance solicitor, if all such service performed by the individual
28 for the employer is performed for remuneration solely by way of
29 commission.

30 (5) Service performed by an individual for an employer as a real estate
31 salesman or as a real estate broker, if all such service performed by the
32 individual for the employer is performed for remuneration solely by way
33 of commission.

1 (6) Service performed by an individual who, pursuant to the Federal
2 Economic Opportunity Act of 1964, is not subject to the provisions of law
3 relating to federal employment, including unemployment compensation.

4 (7) Domestic, which includes attendant care, and day care services authorized
5 by the department of social services and housing under the Social Security
6 Act, as amended, performed by an individual in the employ of a recipient
7 of social service payments.

8 Section 6. Principal and Secondary Employer Defined; Coercion, interference,
9 etc. Prohibited. If an individual is concurrently a regular employee of two or more
10 employers as defined in this Act, the principal employer shall be the employer who pays
11 the individual the most wages; provided that if one of the employers, who does not pay
12 the most wages, employs the regular employee for at least thirty-five hours per week, the
13 employee shall determine which of the employers shall be the employee's principal
14 employer. The employee's other employers are secondary employers. An employer so
15 designated as the principal employer shall remain as such principal employer for one year
16 or until change of employment, whichever is earlier. If an individual is concurrently a
17 regular employee of a public entity which is not an employer as defined in section 3 and
18 of an employer as defined in section 3 the latter shall be deemed to be a secondary
19 employer. An employer who, directly or indirectly, interferes with or coerces or attempts
20 to coerce an employee in making a determination under this section shall be subject to
21 the penalty provided under Subsection 23(b).

22 Section 7. Required Health Care Benefits. (a) A prepaid health care plan shall
23 qualify as a plan providing the mandatory health care benefits required under this Act if it
24 provides for health care benefits equal, to, or medically reasonably substitutable for, the
25 benefits provided by prepaid health plans of the same type, as specified in Section 9(a)(1)
26 or (2), which have the largest numbers of subscribers in the Commonwealth. This
27 applies to the types and quantity of benefits as well as to limitations on reimbursability,
28 including deductibles, and to required amounts of co-insurance. The Secretary, after
29 advice by the prepaid health care advisory council, shall determine whether benefits
30 provided in a plan, other than the plan of the respective type having the largest numbers
31 of subscribers in the Commonwealth, comply with the standards specified in this
32 subsection.

33 (b) A prepaid group health care plan shall also qualify for the mandatory health
34 care benefits required under this Act if it is demonstrated by the health care plan

1 contractor offering such coverage to the satisfaction of the Secretary after advice by the
2 prepaid health care advisory council that the plan provides for sound basic hospital,
3 surgical, medical, and other health care benefits at a premium commensurate with the
4 benefits included taking proper account of the limitations, co-insurance features, and
5 deductibles specified in such plan. Coverage under a plan which provides aggregate
6 benefits that are more limited than those provided by plans qualifying under subsection
7 (a) shall be in compliance with section 8 only if the employer contributes at least half of
8 the cost of the coverage of dependents under such plan.

9 (c) Subject to the provisions of subsections (a) and (b) without limiting the
10 development of medically more desirable combinations and the inclusion of new types of
11 benefits, a prepaid health care plan qualifying under this act shall include at least the
12 following benefit types:

13 (1) Hospital benefits:

14 (A) In-patient care for a period of at least one hundred twenty days of
15 confinement in each calendar year covering:

16 (i) Room accommodations;

17 (ii) Regular and special diets;

18 (iii) General nursing services;

19 (iv) Use of operating room, surgical supplies, anesthesia services, and
20 supplies;

21 (v) Drugs, dressings, oxygen, antibiotics, and blood transfusion
22 services.

23 (B) Out-patient care:

24 (i) Covering use of out-patient hospital;

25 (ii) Facilities for surgical procedures or medical care of an emergency
26 and urgent nature.

27 (2) Surgical benefits:

28 (A) Surgical services performed by a licensed physician, as determined
29 by plans meeting the standards of subsections (a) and (b);

30 (B) After-care visits for a reasonable period;

31 (C) Anesthesiologist services.

32 (3) Medical benefits:

33 (A) Necessary home, office, and hospital visits by a licensed physician;

34 (B) Intensive medical care while hospitalized;

- 1 (C) Medical or surgical consultations while confined.
- 2 (4) Diagnostic laboratory services, x-ray films, and radio-therapeutic services,
3 necessary for diagnosis or treatment of injuries or diseases.
- 4 (5) Maternity benefits, at least if the employee has been covered by the
5 prepaid health care plan for nine consecutive months prior to the delivery.
- 6 (6) Substance abuse benefits:
- 7 (A) Alcoholism and drug addiction are illnesses and shall receive benefits
8 as such. In-patient and out-patient benefits for the diagnosis and
9 treatment of substance abuse, including but not limited to alcoholism
10 and drug addiction, shall be specifically stated and shall not be less
11 than the benefits for any other illness, except as provided in this
12 subsection. Medical treatment of substance abuse shall not be limited or
13 reduced by restricting coverage to the mental health or psychiatric of a plan.
14 However, any psychiatric services received as a result of the treatment of
15 substance abuse may be limited to the psychiatric benefits of the plan.
- 16 (B) Out-patient benefits provided by a physician, psychiatrist, or
17 psychologist, without restriction as to place of service; provided that
18 health plans of the type specified in section 9(a) shall retain for the
19 contractor the option of :
- 20 (i) Providing the benefits in its own facility and utilizing its own
21 staff, or
- 22 (ii) Contracting for the provision of these benefits, or
- 23 (iii) Authorizing the patient to utilize outside services and defraying or
24 reimbursing the expenses at a rate not to exceed that for provision
25 of services utilizing the health contractor's own facilities and
26 staff.
- 27 (C) Detoxification and acute care benefits in a hospital or any other
28 public or private treatment facility, or portion thereof, providing services
29 especially for the detoxification of intoxicated persons or drug addicts,
30 which is appropriately licensed, certified, or approved by the
31 department of health in accordance with the standards prescribed by the
32 Joint Commission on Accreditation of Hospitals. In-patient benefits
33 for detoxification and acute care shall be limited in the case of

1 other substance abuse to three admissions per calendar year, not to exceed
2 twenty-one days per admission.

3 (D) Prepaid health plans shall not be required to make reimbursements for
4 care furnished by government agencies and available at no cost to a
5 patient, or for which no charge would have been made if there were
6 no health plan coverage.

7 (d) The prepaid health care advisory council shall be appointed by the director
8 and shall include representatives of the medical and public health professions,
9 representatives of consumer interests, and persons experienced in prepaid health care
10 protection. The membership of the council shall not exceed seven individuals.

11 Section 8. Coverage of Regular employees by Group Prepaid Health Care Plan.
12 Every employer who pays to a regular employee monthly wages in an amount of at least
13 86.67 times the minimum hourly wage, specified in CNMI Minimum Wage Act, as
14 rounded off by regulation of the director, shall provide coverage of such employee by a
15 prepaid health care plan contractor in accordance with provisions of this Act.

16 Section 9. Choice of Plan Type and of Contractor. (a) Every employer required
17 to provide coverage for the employer's employees by a prepaid group health care plan
18 under this Act shall elect whether coverage shall be provided by:

19 (1) A plan which obligates the prepaid health care plan contractor to furnish
20 the required health care benefits; or

21 (2) A plan which obligates the prepaid health care plan contractor to defray or
22 reimburse the expenses of health care. The employer's election is binding
23 for one year.

24 (b) Whether the employer elects a plan type described in Subsection (a)(1) or in
25 Subsection (a)(2), the employer may elect the particular contractor but the employee shall
26 not be obligated to contribute a greater amount to the premium than the employee would
27 have to contribute had the employer elected coverage with contractor providing the
28 prevailing coverage of the respective type in the Commonwealth. Subject to the
29 provision of Section 16 the employer shall provide coverage with the prepaid health care
30 plan contractor selected pursuant to this subsection for all the employer's employees in
31 the Commonwealth electing this type of coverage who are covered by the provisions of
32 this act, except for employees covered by the health care provisions of an applicable
33 collective bargaining agreement as provided in section 15(b) first sentence.

1 Section 10. Liability for Payment of Premium; Withholding; Recovery of
2 Premium. Unless an applicable collective bargaining agreement specifies differently
3 every employer shall contribute at least one-half of the premium for the coverage
4 required by this Act and the employee shall contribute the balance; provided that in no
5 case shall the employee contribute more than 1.5 per cent of the employee's wages; and
6 provided that if the amount of the employee's contribution is less than one-half of the
7 premium, the employer shall be liable for the whole remaining portion of the premium.
8 The employer shall withhold the employee's share from the employee's wages with
9 respect to pay periods as specified by the Secretary. If an employee separates from the
10 employee's employment after the employee's employer has prepaid the employee's share
11 of the cost of providing health care coverage, the employer may deduct an amount not
12 exceed one-half of the premium cost but without regard to the 1.5 per cent limitation,
13 from the last salary or wages due the employee, or seek other appropriate means to
14 recover the premium.

15 Section 11. Commencement of Coverage. The employer shall provide the
16 coverage required by this Act for any regular employee, who has been in the employer's
17 employ for four consecutive weeks, at the earliest time thereafter at which coverage may
18 be provided with prepaid health care plan contractor selected pursuant to this act.

19 Section 12. Continuation of Coverage in Case of Inability to earn wages. If an
20 employee is hospitalized or otherwise prevented by sickness from working, the employer
21 shall enable the employee to continue the employee's coverage by contributing to the
22 premium the amounts paid by the employer toward such premium prior tot he employee's
23 sickness for the period that such employee is hospitalized or prevented by sickness from
24 working. This obligation shall not exceed a period of three months following the month
25 during which the employee became hospitalized or disabled from working, or the period
26 for which the employer has undertaken the payment of the employee's regular wages in
27 such case, whichever is longer.

28 Section 13. Liability of Secondary Employer. An employer who has been
29 notified by an employee, in the form prescribed by the Secretary, that he is not the
30 principal employer as defined in section 6 shall be relieved of the duty of providing the
31 coverage required by this Act until he is notified by the employee pursuant to section 15
32 that he has become the principal employer. He shall notify the Secretary, in the form
33 prescribed by the Secretary, that he is relieved from the duty of providing coverage or of
34 any change in that status.

1 Section 14. Exemption of certain employee. (a) In addition to the exemption
2 specified in section 13, an employer shall be relieved of the employer's duty under
3 section 8 with respect to any employee who has notified the employer, in the form
4 specified by the Secretary, that the employees :

5 (1) Protected by health insurance or any prepaid health care plan
6 established under any law of the Commonwealth;

7 (2) Covered as a dependent under a prepaid health care plan, entitling
8 the employee to the health benefits required by this Act;

9 (3) A recipient of public assistance or covered by a prepaid health care
10 plan established under the laws of the Commonwealth governing
11 medical assistance.

12 (b) Employers receiving notice of a claim of exemption under this section shall
13 notify the director of such claim in the form prescribed by the Secretary.

14 Section 15. Termination of exemption. (a) If an exemption which has been
15 claimed by an employee pursuant to section 14 terminates because of any change in the
16 circumstances entitling the employee to claim such exemption, the employee shall
17 promptly notify the principal employer of the termination of the exemption and the
18 employer thereupon shall provide coverage as required by this act.

19 (b) If because of a change in the employment situation of an employee or a
20 redetermination by an employee as provided in section 6, a principal employer becomes a
21 secondary employer or a secondary employer becomes the principal employer, the
22 employee shall promptly notify the employers affected of such change and the new
23 principal employer shall provide coverage as required by this Act.

24 Section 15. Freedom of collective bargaining. (a) In addition to the policy stated
25 in section 2, nothing in this chapter shall be construed to limit the freedom of employees
26 to bargain collectively for different prepaid health care coverage, if the protection
27 provided by the negotiated plan is more favorable to the employees benefited than the
28 protection provided by this act or at least equivalent thereto, or for a different allocation
29 of the costs thereof. A collective bargaining agreement may provide that the employer
30 himself undertakes to provide the health care specified in the agreement.

31 (b) If the employees rendering particular types of services are not covered by the
32 health care provisions of the applicable collective bargaining agreements to which their
33 employer is a party, the provisions of this Act shall be applicable with respect to them.
34 An employer or group of employers shall be deemed to have complied with the

1 provisions of this Act if they undertake to provide health care services pursuant to a
2 collective bargaining agreement and the services are available to all other employees not
3 covered by such agreement.

4 Section 16. Adjustment of Employer-sponsored plans. Where employees subject
5 to the coverage of this act are included in the coverage provisions of an employer-
6 sponsored prepaid health care plan covering similar employees employed outside the
7 Commonwealth and the majority of such employees are not subject to this act, the
8 benefits applicable to the employees covered by this Act shall be adjusted within one
9 year after the effective date of this Act so as to meet the requirements of this act.

10 Section 17. Individual Waivers; Additional Withholding for Dependents. (a) An
11 employee may waive individually all of the required health care benefits pursuant to this
12 act by:

- 13 (1) Requesting the waiver by a writing submitted to the employer; and
- 14 (2) Receiving approval of the waiver from the director upon the
15 director determining that the employee has other coverage under a
16 prepaid health care plan which provides benefits that meet the
17 standards prescribed in section 7.

18 (b) The employer who receives from an employee a written request for a waiver
19 under this section shall transmit to the director, and copy of the prepaid health care plan
20 on the basis of which the waiver is requested.

21 (c) A waiver under this section is binding for one year and is renewable for
22 subsequent one-year periods.

23 (d) An employer who, directly or indirectly, coerces or attempts to coerce an
24 employee in making a waiver under this section shall be subject to the penalty provided
25 under section 23(b).

26 (e) An employee may not agree to pay a greater share of the premium for such
27 benefits than is required by this Act.

28 (f) Subject to section 7(b), an employee may consent to pay a greater share of the
29 employee's wages and to a withholding of such share by the employer for the purpose of
30 providing prepaid health care benefits of the employee's dependents under the plan
31 providing such benefits for the employee's self.

32 Section 18. Exemption of Followers of Certain Teachings or beliefs. This act
33 shall not apply to any individual who pursuant to the teachings, faith, or belief of any
34 group, depends for healing upon prayer or other spiritual means.

1 Section 19. Joint Provision of Coverage. Employers may form associations for
2 the purpose of jointly providing prepaid health care protection under this act for their
3 employees with the contractors authorized to provide such coverage in the
4 Commonwealth.

5 Section 20. Non complying Employer Held Liable for Employee's Health Care
6 Costs. Any employer who fails to provide coverage as required by this act shall be liable
7 to pay for the health care costs incurred by an eligible employee during the period in
8 which the employer failed to provide coverage.

9 Section 21. Enforcement by the Secretary. Except as otherwise provided in
10 section 7 the Secretary shall administer and enforce this Act. The Secretary may appoint
11 such assistants and such clerical, stenographic, and other help as may be necessary for the
12 proper administration and enforcement of this act subject to any civil service act relating
13 to Commonwealth employees.

14 Section 22. Rule making and other Powers of the Secretary. The Secretary may
15 adopt , amend, or repeal, pursuant to the CNMI Administrative Procedure Act, such rules
16 and regulations as the Secretary deems necessary or suitable for the proper administration
17 and enforcement of this act. The director may round off the amounts specified in this act
18 for the purpose of elimination payments from the premium supplementation fund in other
19 than even dollar amounts or other purposes. The Secretary may prescribe the filing of
20 reports by prepaid health care plan contractors and prescribe the form and content of
21 requests by employers for premium supplementation and the period for the payment
22 thereof.

23 Section 23. Penalties; injunction. (a) If an employer fails to comply with section
24 8, 10, or 12 the employer shall pay a penalty of not less than \$25 or of \$1 for each
25 employee for every day during which such failure continues, whichever sum is greater.
26 the penalty shall be assessed under rules and regulations promulgated pursuant to the
27 CNMI Administrative Procedure Act and shall be collected by the Secretary and paid
28 into the special fund for premium supplementation established by Section 24. The
29 Secretary may, for good cause shown, remit all or any of the penalty.

30 (b) Any employer, employee, or prepaid health care plan contractor who willfully
31 fails to comply with any other provision of this act or any rule or regulation thereunder
32 may be fined not more than \$200 for each such violation.

33 (c) Any employer who fails to initiate compliance with the coverage
34 requirements of section 8 for a period of thirty days, may be enjoined by the

1 Commonwealth Superior Court in which the employer's principal place of business is
2 located from carrying on the employer's business any place in the State so long as the
3 default continues, such action for injunction to be prosecuted by the attorney general or
4 any county attorney if so requested by the director.

5 Section 24. Establishment of Special Premium Supplementation Fund. There is
6 established in the treasury of the Commonwealth, separate and apart from all public
7 moneys or funds of the Commonwealth, a special fund for premium supplementation
8 which shall be administered exclusively for the purposes of this act. All premium
9 supplementations payable under this part shall be paid from the fund. The fund shall
10 consist of (1) all money appropriated by the Commonwealth for the purposes of premium
11 supplementation under this part and (2) all fines and penalties collected pursuant to this
12 act.

13 Section 25. Management of the Fund. The Secretary of the Department of
14 Finance shall be the treasurer and custodian of the premium supplementation fund and
15 shall administer the fund in accordance with the directions of the director of labor and
16 industrial relations. All moneys in the fund shall be held in trust for the purposes of this
17 part only and shall not be expended, released, or appropriated or otherwise disposed of
18 for any other purpose. Moneys in the fund may be deposited in any depository bank in
19 which general funds of the Commonwealth may be deposited but such moneys shall not
20 be commingled with other Commonwealth funds and shall be maintained in separate
21 accounts on the books of the depository bank.

22 Section 26. Disbursements for the Fund. Expenditures of moneys in the premium
23 supplementation fund shall not be subject to any provisions of law requiring specific
24 appropriations or other formal release by the state officers of money in their custody. All
25 payments from the fund shall be made upon warrants drawn upon the Secretary of
26 Finance by the comptroller of the Commonwealth supported by vouchers approved by
27 the Secretary.

28 Section 27. Investment of Moneys. With the approval of the Department the
29 Secretary of Finance may, from time to time, invest such moneys in the premium
30 supplementation fund as are in excess of the amount deemed necessary for the payment
31 of benefits for a reasonable future period. Such moneys may be invested in bonds of any
32 political or municipal corporation or subdivision of the Commonwealth or any of the
33 outstanding bonds of the Commonwealth, or invested bonds or interest-bearing notes or
34 obligations of the Commonwealth (including state director of finance's warrant notes

1 issued pursuant to chapter 40), or of the United States, or those for which the faith and
2 credit of the United States are pledged for the payment of principal and interest, or in
3 federal land bank bonds or joint stock farm loan bonds. The investments shall at all times
4 be so made that all the assets of the fund shall always be readily convertible into cash
5 when needed for the payment of benefits. The Secretary of Finance shall dispose of
6 securities or other properties belonging to the fund only under the direction of the
7 director of labor and industrial relations.

8 Section 28. Entitlement to Premium Supplementation. (a) An employer who
9 employs less than eight employees entitled to coverage under this chapter and who
10 provides coverage to such employees pursuant to section 7(a) shall be entitled to
11 premium supplementation from the fund if the employer's share of the cost of providing
12 such coverage as determined by sections 10 and 12 exceeds 1.5 per cent of the total
13 wages payable to such employees and if the amount of such excess is greater than five per
14 cent of the employer's income before taxes directly attributable to the business in which
15 such employees are employed.

16 (b) The amount of the supplementation shall be that part of the employer's share
17 of the premium cost which exceeds the limits specified in subsection (a).

18 Section 29. Income Directly Attributable to the Business. (a) "Income directly
19 attributable to the business" means gross profits from the business minus deductions for:

- 20 (1) Compensation of officers;
- 21 (2) Salaries and wages, except wages paid by an individual proprietor
22 to oneself;
- 23 (3) Repairs;
- 24 (4) Taxes on business and business property;
- 25 (5) Business advertising;
- 26 (6) Amounts contributed to employee benefit plans;
- 27 (7) Interest on business indebtedness;
- 28 (8) Rent on business property; and
- 29 (9) Other expenses necessary for the current conduct of business.

30 (b) Deductions shall not include:

- 31 (1) Bad debts;
- 32 (2) Contributions or gifts, other than those listed under subsection
33 (a)(6);
- 34 (3) Amortization and depreciation; or

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(4) Losses by fire, storm, casualty, or theft.

(c) The Secretary may promulgate rules and regulations necessary to define income directly attributable to business for the purpose of Section 28.

Section 30. Claim of Premium Supplementation. An employer entitled to premium supplementation shall file a claim therefor in the manner provided by regulation of the Secretary. The employer shall have the burden of proof of establishing the employer's entitlement.

Section 31. Prepaid Health Care Benefits to be Paid form the Premium Supplementation Fund; Recovery of Benefits. Prepaid health care benefits shall be paid from the premium supplementation fund to an employee who is entitled to receive prepaid health care benefits but cannot receive such benefits because of bankruptcy of the employee's employer or because the employee's employer is not in compliance with this act. Benefits paid from the premium supplementation fund to such employee may be recovered from the premium supplementation fund to such employee may be recovered from the employee's bankrupt or noncomplying employer. The Secretary shall institute administrative and legal actions as provided in Section 23 to effect recovery of such benefits.

Section 32. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 33. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

S.B. NO. _____

1 Section 34. Effective Date. This Act shall take effect upon its approval by the
2 Governor or upon its becoming law without such approval.

Date: _____

Introduced By: _____

Sen. Juan P. Tenorio

Approved for Introduction on _____

Chairman, Rules and Procedure