



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Benigno R. Fitial
Governor

Eloy S. Inos
Lt. Governor

19 JAN 2012

Honorable Paul A. Manglona
Senate President, The Senate
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Honorable Eliceo D. Cabrera
Speaker, House of Representatives
Seventeenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 17-94, SD1, entitled, "To Repeal the Beneficiary Derivative Lawsuit Act, Public Law No. 17-51; To Suspend NMI Retirement Fund Procurement Restrictions for 90 days; and for other purposes," which was passed by the Senate and the House of Representatives of the Seventeenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 17-67**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Benigno R. Fitial".

BENIGNO R. FITIAL

cc: Lt. Governor; Lt. Governor's Legal Counsel; Press Secretary; Department of Finance; Northern Mariana Island Retirement Fund; Commonwealth's Law Revision Commission, Special Assistant for Administration; Special Assistant for Programs and Legislative Review



The Senate
Seventeenth Northern Marianas Commonwealth Legislature
P.O. Box 500129
Saipan, MP 96950

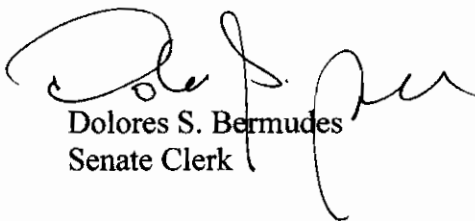
January 17, 2012

The Honorable Benigno R. Fitial
Governor
Commonwealth of the Northern
Mariana Islands
Capitol Hill
Saipan, MP 96950

Dear Governor Fitial:

I have the honor of transmitting herewith Senate Bill No. 17-94, SD1, entitled, "To Repeal the Beneficiary Derivative Lawsuit Act, Public Law No. 17-51; To Suspend NMI Retirement Fund Procurement Restrictions for 90 days; and for other purposes," which was passed by the Senate and the House of Representatives of the Seventeenth Northern Marianas Commonwealth Legislature.

Sincerely yours,



Dolores S. Bermudes
Senate Clerk

Attachment



THE SENATE
SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SENATE BILL NO. 17-94, SD1

AN ACT

To Repeal the Beneficiary Derivative Lawsuit Act, Public Law No. 17-51; To Suspend NMI Retirement Fund Procurement Restrictions for 90 days; and for other purposes.

SENATE ACTION

Offered by Senator(s): Jude U. Hofschneider; Juan M. Ayuyu; Henry H. San Nicolas

Date: October 12, 2011

Referred to: None

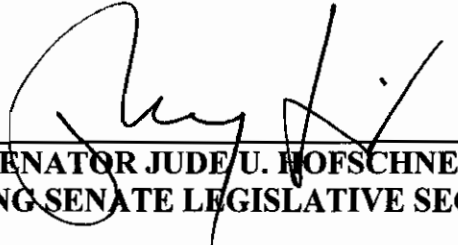
Final Reading: December 27, 2011

HOUSE ACTION

Referred to: None

Standing Committee Report No.: None

First and Final Reading: January 17, 2012


SENATOR JUDE U. HOFSCHEIDER
ACTING SENATE LEGISLATIVE SECRETARY

THE SENATE
SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH REGULAR SESSION, 2011 SENATE BILL NO. 17-94, SD1

AN ACT

To Repeal the Beneficiary Derivative Lawsuit Act, Public Law No. 17-51; To Suspend NMI Retirement Fund Procurement Restrictions for 90 days; and for other purposes.

BE IT ENACTED BY THE SEVENTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act shall be cited as the “Repealer of the Beneficiary
2 Derivative Lawsuit Act of 2011.”

3 **Section 2. Findings.** The Legislature finds that Public Law No. 17-51 adversely
4 affects the ability of the NMI Retirement Fund to fulfill its statutory mandate. The Legislature
5 finds that Public Law No. 17-51, which allows beneficiaries of the NMI Retirement Fund to
6 bring actions against “anyone or any entity who has done harm to the Retirement Fund” after
7 first requesting the Board of Trustees bring such suit, expands the liability risk for any person
8 or entity dealing with the Fund to such an extent that service providers that were under
9 contract prior to the enactment of Public Law No. 17-51 are terminating their agreements with
10 the Fund. Additionally, the Legislature finds that in order to replace these critical service
11 providers, including investment consultants, money managers, actuaries and others, the
12 Retirement Fund will be required to pay higher fees to compensate for the increased exposure

1 to potential baseless lawsuits that the service providers will have to factor into their fees,
2 assuming there are service providers willing to assume such risk.

3 Furthermore, the Legislature finds the Retirement Fund cannot afford the additional
4 cost of doing business that results from enactment of Public Law No. 17-51, and that the
5 Board of Trustees of the Fund cannot meet its fiduciary duty to the Fund, absent sound advice.
6 Therefore, the intent of this Act is to repeal the Beneficiary Derivative Lawsuit Act, Public
7 Law No. 17-51 in its entirety from its inception.

8 The Legislature further finds the procurement restrictions of the NMI Retirement Fund
9 must be suspended for ninety days to allow the Retirement Fund to re-enter into contract with
10 previous providers and contractors that terminated their contracts with the Retirement Fund
11 because of the potential liability created by Public Law 17-51. The regular procurement
12 process is lengthy, time consuming, and very expensive.

13 **Section 3. Repealer.** The Beneficiary Derivative Lawsuit Act, Public Law No. 17-51
14 is hereby repealed in its entirety.

15 **Section 4. Suspension of Procurement Restrictions.** The Retirement Fund is hereby
16 relieved of restrictions imposed by the Commonwealth Procurement Regulations, including
17 without limitation competitive bidding requirements, for a period of ninety (90) days in order
18 to restore the Retirement Fund's relationships with service providers and contractors who
19 terminated or suspended their relationships with the Retirement Fund between September 5,
20 2011 and the Effective Date of this Act.

21 **Section 5. Severability.** If any provision of this Act or the application of any such
22 provision to any person or circumstance should be held invalid by a court of competent

SENATE BILL NO. 17-94, SD1

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

3 **Section 6. Savings Clause.** This Act and any repealer contained herein shall not be
4 construed as affecting any action or proceeding instituted under or pursuant to prior law, that
5 was pending in the Superior Court of the Commonwealth on its Effective Date and which is
6 based upon, or which could appropriately be amended to include, a cause of action arising
7 under P.L. 17-51.

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

CERTIFIED BY:



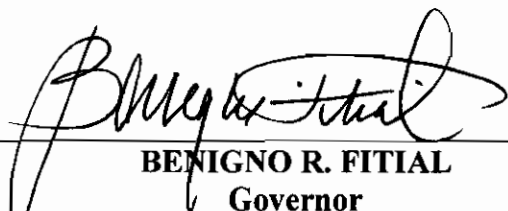
PAUL A. MANGLONA
PRESIDENT OF THE SENATE

ATTESTED BY:



JUDE U. HOFSCHEIDER
ACTING SENATE LEGISLATIVE SECRETARY

APPROVED this 19th day of JANUARY, 2012



BENIGNO R. FITIAL
Governor
Commonwealth of the Northern Mariana Islands