

TITLE 10: LOCAL LAWS
DIVISION 2: SECOND SENATORIAL DISTRICT (TINIAN, ETC.)

§ 2511. Short Title.

This chapter may be cited as the Revised Tinian Casino Gaming Control Act of 1989.

Source: Tinian Local Initiative 1, § 1; amended by TLL 21-9, § 4 (§ 2511) (Mar. 30, 2020).

Commission Comment: Tinian Local Initiative 1 took effect January 1, 1990, after ratification by two-thirds of the qualified voters in the Second Senatorial District (Tinian and Aguiguan) on November 4, 1989. Tinian Local Initiative 1, §§ 128, 129.

In 1991, the Commonwealth government filed an action challenging provisions in the original Tinian Casino Gaming Control Act and certain regulations adopted by the Casino Gaming Control Commission on the basis that they violated Commonwealth-wide laws. Following hearings, the Commonwealth Superior Court issued a decision denying most of the government's claims. On appeal, the Commonwealth Supreme Court vacated the judgment and remanded the case for a new hearing; the Superior Court was instructed to apply a newly-formulated test in determining the legality of the challenged provisions. *Commonwealth v. Tinian Casino Gaming Control Comm'n*, 3 N.M.I. 134 (1992). On remand, the Superior Court upheld some of the challenged provisions in the act but accepted claims that others violated Commonwealth-wide law. In an order issued April 8, 1993, the Superior Court "modified" several provisions, "deleted" others, and directed the Tinian Casino Gaming Control Commission to "revise and submit to this court ... the Tinian Casino Gaming Control Act of 1989 in a manner that is consistent with the entirety of this Final Order, such revisions to include re-numbering of the Sections of the Act to reflect adding new sections/subsections and deletions of sections/subsections." *Commonwealth v. Tinian Casino Gaming Control Comm'n*, Civ. No. 91-0690 (N.M.I. Super. Ct. Apr. 8, 1993) (Final Order at 15). On August 18, 1993, the Superior Court issued an order approving and adopting a revised act. That order was previously reproduced verbatim as a Commission comment under 10 CMC § 25129 but has now been omitted due to the enactment of TLL 21-9.

Tinian Local Law 21-9 (Mar. 30, 2020) made comprehensive changes to this chapter. In addition to severability and savings clause sections, TLL 21-9 included the following Findings and Purpose, Repealer, Enactment, and Amendment sections:

Section 1. Findings and Purpose. The Tinian and Aguiguan Legislative Delegation (Tinian Legislative Delegation) finds that Tinian Local Initiative 1 took effect January 1, 1990, after ratification by two-thirds of the qualified voters in the Second Senatorial District (Tinian and Aguiguan) on November 4, 1989.

The Tinian Legislative Delegation further finds that in 1991, the Commonwealth government filed an action challenging provisions in the act and certain regulations adopted by the Casino Gaming Control

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Commission on the basis that they violated Commonwealth-wide laws. Following hearings, the CNMI Superior Court issued a decision denying most of the government's claims. On appeal, the CNMI Supreme Court vacated the judgment and remanded the case for a new hearing; the CNMI Superior Court was instructed to apply a newly-formulated test in determining the legality of the challenged provisions. *Commonwealth v. Tinian Casino Gaming Control Comm'n*, 3 N.M.I. 134 (1992). On remand, the CNMI Superior Court upheld some of the challenged provisions in the act but accepted claims that others violated Commonwealth-wide law.

The Tinian Legislative Delegation finds that on April 8, 1993, the CNMI Superior Court "modified" several provisions, "deleted" others, and directed the Tinian Casino Gaming Control Commission to revise and submit to the court the Tinian Casino Gaming Control Act of 1989 in a manner that is consistent with the entirety of the final order, such revisions to include re-numbering of the sections of the Act to reflect adding new sections/subsections and deletions of sections/subsections. *Commonwealth v. Tinian Casino Gaming Control Comm'n*, Civ. No. 91-0690 (N.M.I. Super. Ct. Apr. 8, 1993) (Final Order at 15).

On August 18, 1993, the CNMI Superior Court issued an order approving and adopting a revised act known as the "Revised Tinian Casino Gaming Control Act of 1989." (Revised Act) *See Commonwealth v. Tinian Casino Gaming Control Comm'n*, Civ. No. 91-0690 (N.M.I. Super. Ct. Aug. 18, 1993) (Order Approving and Adopting the Revised Tinian Casino Gaming Control Act of 1989). The CNMI Superior Court ordered that the "Revised Tinian Casino Gaming Control Act of 1989" be, and is, deemed in full force and affect after April 18, 1993. The CNMI Superior Court further ordered that the "Revised Tinian Casino Gaming Control Act of 1989 (Section 1 thru 126 inclusive at pages 1-99 attached hereto)" be published in its entirety in the Commonwealth Code, superseding and replacing the existing Tinian Casino Gaming Control Act of 1989 currently published and codified at 10 CMC Ch. 6, Div. 2 (10 CMC § 2511 through 10 CMC § 3126 inclusive); with the CNMI Law Revision Commission renumbering the Revised Tinian Casino Gaming Control Act of 1989 ("Revised Act").

The Tinian Legislative Delegation further finds that following the CNMI Superior Court's order, the CNMI Law Revision Commission published the "Revised Tinian Casino Gaming Control Act of 1989" in the Commonwealth Code; however, the "Revised Act" was not codified in the Commonwealth Code. Although the Superior Court ordered that the "Revised Act" supersede and replace the original act codified in the Commonwealth Code, the CNMI Law Revision Commission does not have statutory authority pursuant to 1 CMC § 3801 *et seq.* to codify Commonwealth laws that were not enacted by the legislature or popular initiative as mandated by the NMI Constitution. The "Revised Act" was a final product of the parties in the case, *Commonwealth v. Tinian Casino Gaming Control Comm'n*, (Civ. No. 91-0690), and adopted and approved by the CNMI Superior Court. In order for the "Revised Act" to supersede

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and replace the original act and to be codified in the Commonwealth Code, the “Revised Act” must be enacted by the Legislature or the Tinian Legislative Delegation.

The Tinian Legislative Delegation finds that subsequent to the CNMI Superior Court’s order of August 18, 1993, the “Revised Act” became operative and governed the actions and conduct of the Tinian Casino Gaming Control Commission, the casino operators, the casino industry in Tinian as well as the Tinian Legislative Delegation. Subsequently, the Tinian Legislative Delegation enacted several local laws amending certain provisions of the “Revised Act.” However, litigation was initiated in 2004 and in 2015 in the CNMI Superior Court, among other issues, to determine whether or not the Tinian & Guiuan Legislative Delegation has the authority to amend the “Revised Act.” In August 2017, the CNMI Supreme Court held that pursuant to Article II, Section 6 of the NMI Constitution and the Local Law Act of 1983, a delegation may regulate gambling, including amending a gambling law enacted by local initiative, and Article XXI does not impose a contrary prohibition. *See Blanco-Maratita v. Borja*, 2017 MP 6 (Aug. 22, 2017) (Slip Opinion at ¶ 38).

The Tinian Legislative Delegation finds that based on the CNMI Supreme Court’s decision in *Blanco-Maratita v. Borja*, it is necessary and long overdue to codify the “Revised Tinian Casino Gaming Control Act of 1989” as approved and adopted by the CNMI Superior Court in August 18, 1993 including the amendments to “Revised Act” as enacted by Tinian Local Laws 14-1, 18-5, 19-12 and 20-5. Accordingly, the purpose of this legislation is to enact the “Revised Tinian Casino Gaming Control Act of 1989” including the amendments established by Tinian Local Laws 14-1, 18-5, 19-12 and 20-5 and additional amendments necessary to enhance Tinian’s gaming industry.

Section 2. Repealer. Tinian Local Laws 14-01, 18-05, 19-12, and 20-05 are hereby repealed in their entirety.

Section 3. Enactment of the Revised Tinian Casino Gaming Control Act of 1989. Notwithstanding any law to the contrary, the Tinian and Aguiguan Legislative Delegation hereby adopts and enacts the Revised Tinian Casino Gaming Control Act of 1989 as approved by the *CNMI Superior Court in CNMI v. Tinian Casino Gaming Control Commission, et al.*, Civil Action No. 91-690 (Aug. 18, 1993).

Section 4. Amendment to the Revised Tinian Casino Gaming Control Act of 1989. Notwithstanding Section 3 of this Act or any law to the contrary, the Tinian and Aguiguan Legislative Delegation hereby amends Chapter 6, Division 2 of Title 10 the Commonwealth Code as follows: ...