

## How the Northern Mariana Island Labor Stabilization Act Changes Existing Law

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### 48 USC §1806. Immigration and transition

#### (a) Application of the Immigration and Nationality Act and establishment of a ~~transition program~~ labor stabilization program

##### (1) In general

Subject to paragraphs (2) and (3), effective on the first day of the first full month commencing 1 year after May 8, 2008 (hereafter referred to as the "~~transition program~~ labor stabilization program effective date"), the provisions of the "immigration laws" (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))) shall apply to the Commonwealth of the Northern Mariana Islands (referred to in this section as the "Commonwealth"), except as otherwise provided in this section.

##### (2) ~~Transition period~~ Labor stabilization program period

There shall be a ~~transition period~~ labor stabilization program period beginning on the ~~transition program~~ effective date and ending on ~~December 31, 2029~~ the date that is the later of December 31, 2039, or the date determined pursuant to subsection (d)(8), during which the Secretary of Homeland Security, in consultation with the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of the Interior, shall establish, administer, and enforce a ~~transition program~~ labor stabilization program to regulate immigration to the Commonwealth, as provided in this section (hereafter referred to as the "~~transition program~~" "labor stabilization program").

##### (3) Delay of commencement of ~~transition period~~ labor stabilization program period

###### (A) In general

The Secretary of Homeland Security, in the Secretary's sole discretion, in consultation with the Secretary of the Interior, the Secretary of Labor, the Secretary of State, the Attorney General, and the Governor of the Commonwealth, may determine that the ~~transition program~~ labor stabilization program effective date be delayed for a period not to exceed more than 180 days after such date.

###### (B) Congressional notification

The Secretary of Homeland Security shall notify the Congress of a determination under subparagraph (A) not later than 30 days prior to the ~~transition program~~ labor stabilization program effective date.

###### (C) Congressional review

A delay of the ~~transition program~~ labor stabilization program effective date shall not take effect until 30 days after the date on which the notification under subparagraph (B) is made.

#### **(4) Requirement for regulations**

The ~~transition program~~ labor stabilization program shall be implemented pursuant to regulations to be promulgated, as appropriate, by the head of each agency or department of the United States having responsibilities under the ~~transition program~~ labor stabilization program.

#### **(5) Interagency agreements**

The Secretary of Homeland Security, the Secretary of State, the Secretary of Labor, and the Secretary of the Interior shall negotiate and implement agreements among their agencies to identify and assign their respective duties so as to ensure timely and proper implementation of the provisions of this section. The agreements should address, at a minimum, procedures to ensure that Commonwealth employers have access to adequate labor, and that tourists, students, retirees, and other visitors have access to the Commonwealth without unnecessary delay or impediment. The agreements may also allocate funding between the respective agencies tasked with various responsibilities under this section.

#### **(6) Fees for training United States workers**

##### **(A) Supplemental fee**

##### **(i) In general**

In addition to fees imposed pursuant to section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) to recover the full costs of adjudication services, the Secretary shall impose an annual supplemental fee of \$200 per nonimmigrant worker on each prospective employer who is issued a permit under subsection (d)(3) during the ~~transition program~~ labor stabilization program. A prospective employer that is issued a permit with a validity period of longer than 1 year shall pay the fee for each year of requested validity at the time the permit is requested.

##### **(ii) Inflation adjustment**

Beginning in fiscal year 2020, the Secretary, through notice in the Federal Register, may annually adjust the supplemental fee imposed under clause (i) by a percentage equal to the annual change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

##### **(iii) Use of funds**

Amounts collected pursuant to clause (i) shall be deposited into the Treasury of the Commonwealth Government for the sole and exclusive purpose of funding vocational education, apprenticeships, or other training programs for United States workers.

##### **(iv) Fraud prevention and detection fee**

In addition to the fees described in clause (i), the Secretary-

(I) shall impose, on each prospective employer filing a petition under this subsection for one or more nonimmigrant workers, a \$50 fraud prevention and detection fee; and

(II) shall deposit and use the fees collected under subclause (I) for the sole purpose of preventing and detecting immigration benefit fraud in the Northern Mariana Islands, in accordance with section 286(v)(2)(B) of the Immigration and Nationality Act (8 U.S.C. 1356(v)(2)(B)).

**(B) Plan for the expenditure of funds**

Not later than 120 days before the first day of fiscal year 2020, and annually thereafter, the Governor of the Commonwealth Government shall submit to the Secretary of Labor-

(i) a plan for the expenditures of amounts deposited under subparagraph (A)(iii);

(ii) a projection of the effectiveness of such expenditures in the placement of United States workers into jobs held by non-United States workers; and

(iii) a report on the changes in employment of United States workers attributable to expenditures of such amounts during the previous year.

**(C) Determination and report**

Not later than 120 days after receiving each expenditure plan under subparagraph (B)(i), the Secretary of Labor shall-

(i) issue a determination on the plan; and

(ii) submit a report to Congress that describes the effectiveness of the Commonwealth Government at meeting the goals set forth in such plan.

**(D) Payment restriction**

Payments may not be made in a fiscal year from amounts deposited under subparagraph (A)(iii) before the Secretary of Labor has approved the expenditure plan submitted under subparagraph (B)(i) for that fiscal year.

**(7) Asylum**

Section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) shall not apply during the ~~transition period~~ labor stabilization program period to persons physically present in the Commonwealth or arriving in the Commonwealth (whether or not at a designated port of arrival), including persons brought to the Commonwealth after having been interdicted in international or United States waters.

**(b) Numerical limitations for nonimmigrant workers**

**(1) In general**

**(A) Nonimmigrant workers generally**

An alien, if otherwise qualified, may seek admission to Guam or to the Commonwealth during the ~~transition program~~ labor stabilization program as a nonimmigrant worker under section 101(a)(15)(H) of the Immigration and Nationality Act (8 USC 1101(a)(15)(H)) without counting against the numerical limitations set forth in section 214(g) of such Act (8 USC <sup>1</sup> 1184(g)).

### **(B) H-2B workers**

In the case of an alien described in subparagraph (A) who seeks admission under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)), the alien, if otherwise qualified, may, before December 31, 2029, be admitted under such section, notwithstanding the requirement of such section that the service or labor be temporary, for a period of up to 3 years-

(i) to perform service or labor on Guam or in the Commonwealth pursuant to any agreement entered into by a prime contractor or subcontractor calling for services or labor required for performance of a contract or subcontract for construction, repairs, renovations, or facility services that is directly connected to, supporting, associated with, or adversely affected by the military realignment occurring on Guam and in the Commonwealth, with priority given to federally funded military projects; or

(ii) to perform service or labor as a health care worker (such as a nurse, physician assistant, or allied health professional) at a facility that jointly serves members of the Armed Forces, dependents, and civilians on Guam or in the Commonwealth, subject to the education, training, licensing, and other requirements of section 212(a)(5)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(5)(C)), as applicable, except that this clause shall not be construed to include graduates of medical schools coming to Guam or the Commonwealth to perform service or labor as members of the medical profession.

### **(2) Locations**

Paragraph (1) does not apply with respect to the performance of services of labor at a location other than Guam or the Commonwealth.

### **(3) Report**

Not later than December 1, 2027, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate, the Committee on the Judiciary of the Senate, the Committee on Natural Resources of the House of Representatives, and the Committee on the Judiciary of the House of Representatives that-

(A) projects the number of asylum claims the Secretary anticipates following the termination of the ~~transition period~~ labor stabilization program period; and

(B) describes the efforts of the Secretary to ensure appropriate interdiction efforts, provide for appropriate treatment of asylum seekers, and prepare to accept and adjudicate asylum claims in the Commonwealth.

**(c) Nonimmigrant investor visas**

**(1) In general**

Notwithstanding the treaty requirements in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), during the ~~transition period~~ labor stabilization program period, the Secretary of Homeland Security may, upon the application of an alien, classify an alien as a CNMI-only nonimmigrant under section 101(a)(15)(E)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)(ii)) if the alien-

(A) has been admitted to the Commonwealth in long-term investor status under the immigration laws of the Commonwealth before the ~~transition program~~ labor stabilization program effective date;

(B) has continuously maintained residence in the Commonwealth under long-term investor status;

(C) is otherwise admissible; and

(D) maintains the investment or investments that formed the basis for such long-term investor status.

**(2) Requirement for regulations**

Not later than 60 days before the ~~transition program~~ labor stabilization program effective date, the Secretary of Homeland Security shall publish regulations in the Federal Register to implement this subsection.

**(d) Special provision to ensure adequate employment; ~~Commonwealth only transitional workers~~ Commonwealth only workers**

An alien who is seeking to enter the Commonwealth as a nonimmigrant worker may be admitted to perform work during the ~~transition period~~ labor stabilization program period subject to the following requirements:

(1) Such an alien shall be treated as a nonimmigrant described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), including the ability to apply, if otherwise eligible, for a change of nonimmigrant classification under section 248 of such Act (8 U.S.C. 1258) or adjustment of status under this section and section 245 of such Act (8 U.S.C. 1255).

(2) Protection for united states workers.-

(A) Temporary labor certification.-

(i) In general.-~~Beginning~~ Subject to clause (iii) and beginning with petitions filed with employment start dates in fiscal year 2020, a petition to import a nonimmigrant worker under this subsection may not be approved by the Secretary unless the petitioner has applied to the Secretary of Labor for a temporary labor certification confirming that-

(I) there are not sufficient United States workers in the Commonwealth who are able, willing, qualified, and available at the time and place needed to perform the services or labor involved in the petition; and

(II) employment of the nonimmigrant worker will not adversely affect the wages and working conditions of similarly employed United States workers.

(ii) Petition.-After receiving a temporary labor certification under clause (i), a prospective employer may submit a petition to the Secretary for a ~~Commonwealth Only Transitional Worker~~ Commonwealth Only Worker permit on behalf of the nonimmigrant worker.

(iii) TRANSITION PERIOD.—Beginning with petitions filed with employment start dates in the first 20 fiscal year after the date of the enactment of the ‘Northern Mariana Islands Labor Stabilization Act’, a petition to import a nonimmigrant worker under this subsection shall be approved by the Governor in a substantially similar manner as such petition is made to the Governor of Guam under section 214.2(h)(6)(iii) of title 8, Code of Federal Regulations (or a successor 3 regulation) is approved.”

(B) Prevailing wage survey.-

(i) In general.-In order to effectuate the requirement for a temporary labor certification under subparagraph (A)(i), the Secretary of Labor shall use, or make available to employers, an occupational wage survey conducted by the Governor that the Secretary of Labor has determined meets the statistical standards for determining prevailing wages in the Commonwealth on an ~~annual~~ biennial basis.

(ii) Alternative method for determining the prevailing wage.-In the absence of an occupational wage survey approved by the Secretary of Labor under clause (i) and subject to clause (iii), the prevailing wage for an occupation in the Commonwealth shall be the arithmetic mean of the wages of workers similarly employed in the territory of Guam according to the wage component of the Occupational Employment Statistics Survey conducted by the Bureau of Labor Statistics.

(iii) CALIBRATION OF ALTERNATIVE METHOD.—The prevailing wage required to be paid pursuant to clause (ii) shall be 75 percent of the wage determined pursuant to that section or the federal minimum wage, whichever is greater.”

(C) Minimum wage.-An employer shall pay each ~~Commonwealth Only Transitional Worker~~ Commonwealth Only Worker a wage that is not less than the greater of-

- (i) the statutory minimum wage in the Commonwealth;
- (ii) the Federal minimum wage; or
- (iii) the prevailing wage in the Commonwealth for the occupation in which the worker is employed.

(3) Permits.-

(A) In general.-The Secretary , in consultation with the Governor, shall establish, administer, and enforce a system for allocating and determining terms and conditions of permits to be issued to prospective employers for each nonimmigrant worker described in this subsection who would not otherwise be eligible for admission under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

~~(B) Numerical cap. The number of permits issued under subparagraph (A) may not exceed-~~

- ~~(i) 13,000 for fiscal year 2019;~~
- ~~(ii) 12,500 for fiscal year 2020;~~
- ~~(iii) 12,000 for fiscal year 2021;~~
- ~~(iv) 11,500 for fiscal year 2022;~~
- ~~(v) 11,000 for fiscal year 2023;~~
- ~~(vi) 10,000 for fiscal year 2024;~~
- ~~(vii) 9,000 for fiscal year 2025;~~
- ~~(viii) 8,000 for fiscal year 2026;~~
- ~~(ix) 7,000 for fiscal year 2027;~~
- ~~(x) 6,000 for fiscal year 2028;~~
- ~~(xi) 5,000 for fiscal year 2029; and~~
- ~~(xii) 1,000 for the first quarter of fiscal year 2030.~~

(B) NUMERICAL CAP.— “(i) IN GENERAL.—

(I) IN GENERAL.—The number of permits issued under subparagraph (A) may not exceed 15,000 for any fiscal year.

(II) CONSTRUCTION AND EXTRACTION OCCUPATIONS.— Notwithstanding any numerical cap set forth in subclause (I), the Secretary of Homeland Security shall increase by

3,000, for each such fiscal year, the total number of permits available under this subsection for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47-0000).

(ii) CONSTRUCTION OCCUPATIONS.—The permits allocated for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47-0000) pursuant to this subparagraph may only be made available to foreign workers who are nationals of a country designated eligible to participate in the program under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during calendar year 2024 or 2025.;

(C) Reports regarding the percentage of United States Workers.-

(i) By Governor.-Not later than 60 days before the end of each calendar year, the Governor shall submit a report to the Secretary that identifies the ratio between United States workers and other workers in the Commonwealth's workforce based on income tax filings with the Commonwealth for the tax year.

(ii) By GAO.-Not later than December 31, 2019, and biennially thereafter, the Comptroller General of the United States shall submit a report to the Chair and Ranking Member of the Committee on Energy and Natural Resources of the Senate, the Chair and Ranking Member of the Committee on Natural Resources of the House of Representatives, the Chair and Ranking Member of the Committee on Health, Education, Labor, and Pensions of the Senate and the Chair and Ranking Member of the Committee on Education and the Workforce of the House of Representatives that identifies the ratio between United States workers and other workers in the Commonwealth's workforce during each of the previous 5 calendar years.

(D) Petition; issuance of permits.-

(i) Submission.-A prospective employer may submit a petition for a permit under this paragraph not earlier than-

(I) 120 days before the date on which the prospective employer needs the beneficiary's services; or

(II) if the petition is for the renewal of an existing permit, not earlier than 180 days before the expiration of such permit.

(ii) Employment verification.-The Secretary shall establish a system for each employer of a ~~Commonwealth Only Transitional Worker~~ Commonwealth Only Worker to submit a semiannual report to the Secretary and the Secretary of Labor that provides evidence to verify the continuing employment and payment of such worker under the terms and conditions set forth in the permit petition that the employer filed on behalf of such worker.

(iii) Revocation.-

(I) In general.-The Secretary, in the Secretary's discretion, may revoke a permit approved under this paragraph for good cause, including if-

(aa) the employer fails to maintain the continuous employment of the subject worker, fails to pay the subject worker, fails to timely file a semiannual report required under this paragraph, commits any other violation of the terms and conditions of employment, or otherwise ceases to operate as a legitimate business (as defined in clause (iv)(II));

(bb) the beneficiary of such petition does not apply for admission to the Commonwealth by the date that is ~~10 days~~ 90 days after the period of petition validity begins, if the employer has requested consular processing; or

(cc) the employer fails to provide a former, current, or prospective ~~Commonwealth Only Transitional Worker~~ Commonwealth Only Worker, not later than 21 business days after receiving a written request from such worker, with the original (or a certified copy of the original) of all petitions, notices, and other written communication related to the worker (other than sensitive financial or proprietary information of the employer, which may be redacted) that has been exchanged between the employer and the Department of Labor, the Department of Homeland Security, or any other Federal agency or department.

(II) Reallocation of revoked petition.-Notwithstanding subparagraph (C), for each permit revoked under subclause (I) in a fiscal year, an additional permit shall be made available for use in the subsequent fiscal year.

(iv) Legitimate business.-

(I) In general.-A permit may not be approved for a prospective employer that is not a legitimate business.

(II) Defined term.-In this clause, the term "legitimate business" means a real, active, and operating commercial or entrepreneurial undertaking that the Secretary, in the Secretary's sole discretion, determines-

(aa) produces services or goods for profit, or is a governmental, charitable, or other validly recognized nonprofit entity;

(bb) meets applicable legal requirements for doing business in the Commonwealth;

(cc) has substantially complied with wage and hour laws, occupational safety and health requirements, and all other Federal, Commonwealth, and local requirements related to employment during the preceding 5 years;

(dd) does not directly or indirectly engage in, or knowingly benefit from, prostitution, human trafficking, or any other activity that is illegal under Federal, Commonwealth, or local law;

(ee) is a participant in good standing in the E-Verify program;

(ff) does not have, as an owner, investor, manager, operator, or person meaningfully involved with the undertaking, any individual who has been the owner, investor, manager, operator, or otherwise meaningfully involved with an undertaking that does not comply with item (cc) or (dd), or is the agent of such an individual; and

(gg) is not a successor in interest to an undertaking that does not comply with item (cc) or (dd).

~~(v) Construction occupations. A permit for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47-0000) may not be issued for any worker other than a worker described in paragraph (7)(B).~~

~~(E) Typhoon recovery.~~

~~(i) Permits for construction workers. Notwithstanding any numerical cap set forth in subparagraph (B) for each of fiscal years 2020, 2021, and 2022, the Secretary of Homeland Security shall increase by 3,000, for each such fiscal year, the total number of permits available under this subsection for Construction and Extraction Occupations (as defined by the Department of Labor as Standard Occupational Classification Group 47-0000).~~

~~(ii) Permit requirements. The Secretary may only issue a permit made available under clause (i) to a prospective employer if the permit is for an alien who~~

~~(I) is a national of a country designated eligible to participate in the program under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)(b)) during calendar year 2018; and~~

~~(H) is performing service or labor pursuant to a contract or subcontract for construction, repairs, renovations, or facility services directly connected to, or associated with recovery from a presidentially declared major disaster or emergency (as those terms are defined in section 5122 of title 42), or for preparation for a future disaster or emergency.~~

~~(iii) Exception for construction workers. Subparagraph (D)(v) shall not apply to a permit made available under clause (i) for any fiscal year described in such clause.~~

(4) The Secretary of Homeland Security shall set the conditions for admission of such an alien under the ~~transition program~~ labor stabilization program, and the Secretary of State shall authorize the issuance of nonimmigrant visas for such an alien. Such a visa shall not be valid for admission to the United States, as defined in section 101(a)(38) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(38)), except admission to the Commonwealth or to Guam for the purpose of transit only. An alien admitted to the Commonwealth on the basis of such a visa

shall be permitted to engage in employment only as authorized pursuant to the ~~transition program~~ labor stabilization program.

(5) Such an alien shall be permitted to transfer between employers in the Commonwealth during the period of such alien's authorized stay therein, without permission of the employee's current or prior employer, within the alien's occupational category or another occupational category the Secretary of Homeland Security has found requires alien workers to supplement the resident workforce. Approval of a petition filed by the new employer with a start date within the same fiscal year as the current permit shall not count against the numerical limitation for that period.

(6) The Secretary of Homeland Security may authorize the admission of a spouse or minor child accompanying or following to join a worker admitted pursuant to this subsection.

~~(7) Requirement to remain outside of the united states.—~~

~~(A) In general. Except as provided in subparagraph (B)—~~

~~(i) a permit for a Commonwealth Only Transitional Worker—~~

~~(I) shall remain valid for a period that may not exceed 1 year; and~~

~~(II) may be renewed for not more than two consecutive, 1-year periods; and~~

~~(ii) at the expiration of the second renewal period, an alien may not again be eligible for such a permit until after the alien has remained outside of the United States for a continuous period of at least 30 days prior to the submission of a renewal petition on their behalf.~~

~~(B) Long-term workers. An alien who was admitted to the Commonwealth as a Commonwealth Only Transitional Worker during fiscal year 2015, and during every subsequent fiscal year beginning before July 24, 2018, may receive a permit for a Commonwealth Only Transitional Worker that is valid for a period that may not exceed 3 years and may be renewed for additional 3-year periods during the transition period. A permit issued under this subparagraph shall be counted toward the numerical cap for each fiscal year within the period of petition validity.~~

(7) PERMIT VALIDITY; LONG-TERM WORKERS.—

(A) IN GENERAL.— Except as provided in subparagraph (B), a permit for a Commonwealth Only Worker shall remain valid for a period that may not exceed 1 year, and

(B) LONG-TERM WORKERS.— An alien who was admitted to the Commonwealth as a Commonwealth Only Transitional Worker—

(i) during fiscal year 2015, and

(ii) during two of the fiscal years 2016, 2017, 2018, or 2019, may be admitted as a Commonwealth Only Worker for a period that may not exceed 3 years and may be renewed for additional 3-year periods during the labor stabilization program period. A permit issued pursuant

to this subparagraph shall be counted toward the numerical cap for each fiscal year for which the permit is valid.;

(8) LABOR STABILIZATION PERIOD.—

(A) LABOR NEEDS.—The Secretary of Labor, in consultation with the Secretary, the Secretary of Defense, the Secretary of the Interior, and the Governor, shall, not later than July 1, 2039—

(i) determine the labor needs of the Commonwealth for the ensuing 10-year period; and

(ii) determine whether an extension of up to 10 years is necessary to ensure an adequate number of 10 workers will be available for legitimate businesses in the Commonwealth.

(B) AFFIRMATIVE DETERMINATION.—If the Secretary of Labor makes an affirmative determination under subparagraph (A), the Secretary of Labor may provide for an additional extension of up to 10 years of the labor stabilization period established in subsection (a) upon publication of notice in the Federal Register.

(C) FACTORS CONSIDERED.—In making the determinations required by subparagraph (A), the Secretary of Labor may consider, among other factors, labor market studies within the Commonwealth, the unemployment rate of United States citizens and foreign workers in the Commonwealth, the good faith efforts made by the Commonwealth to locate, educate, train, or prepare United States citizens and other individuals eligible to work in the United States to assume employment, available evidence that United States citizens or other individuals eligible to work in the United States within the Commonwealth are not willing to accept jobs that are available, the effect of foreign workers on compensation, benefits, and living standards of existing workers, and the prior use of foreign workers to fill industry jobs including whether the industry requires foreign workers to fill such jobs.

(9) FEES.— In addition to any other fee applicable with respect to the application for such petitions and permits there shall be imposed of \$150 per petition. Notwithstanding section 703(b), all amounts collected in the form of fees assessed pursuant to this subsection shall be made available to the Secretary of Homeland Security to carry out enforcement of the immigration laws (as such term is defined under section 101 of the Immigration and Nationality Act) and this Act.

**(e) Persons lawfully admitted under the Commonwealth immigration law**

**(1) Prohibition on removal**

**(A) In general**

Subject to subparagraph (B), no alien who is lawfully present in the Commonwealth pursuant to the immigration laws of the Commonwealth on the ~~transition program~~ labor stabilization program effective date shall be removed from the United States on the grounds that such alien's

presence in the Commonwealth is in violation of section 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)), until the earlier of the date-

(i) of the completion of the period of the alien's admission under the immigration laws of the Commonwealth; or

(ii) that is 2 years after the ~~transition program~~ labor stabilization program effective date.

### **(B) Limitations**

Nothing in this subsection shall be construed to prevent or limit the removal under subparagraph 212(a)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(6)(A)) of such an alien at any time, if the alien entered the Commonwealth after May 8, 2008, and the Secretary of Homeland Security has determined that the Government of the Commonwealth has violated section 702(i) of the Consolidated Natural Resources Act of 2008.

### **(2) Employment authorization**

An alien who is lawfully present and authorized to be employed in the Commonwealth pursuant to the immigration laws of the Commonwealth on the ~~transition program~~ labor stabilization program effective date shall be considered authorized by the Secretary of Homeland Security to be employed in the Commonwealth until the earlier of the date-

(A) of expiration of the alien's employment authorization under the immigration laws of the Commonwealth; or

(B) that is 2 years after the ~~transition program~~ labor stabilization program effective date.

### **(3) Registration**

The Secretary of Homeland Security may require any alien present in the Commonwealth on or after the ~~transition period~~ labor stabilization program period effective date to register with the Secretary in such a manner, and according to such schedule, as he may in his discretion require. Paragraphs (1) and (2) of this subsection shall not apply to any alien who fails to comply with such registration requirement. Notwithstanding any other law, the Government of the Commonwealth shall provide to the Secretary all Commonwealth immigration records or other information that the Secretary deems necessary to assist the implementation of this paragraph or other provisions of the Consolidated Natural Resources Act of 2008. Nothing in this paragraph shall modify or limit section 262 of the Immigration and Nationality Act (8 U.S.C. 1302) or other provision of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] relating to the registration of aliens.

### **(4) Removable aliens**

Except as specifically provided in paragraph (1)(A) of this subsection, nothing in this subsection shall prohibit or limit the removal of any alien who is removable under the Immigration and Nationality Act.

**(5) Prior orders of removal**

The Secretary of Homeland Security may execute any administratively final order of exclusion, deportation or removal issued under authority of the immigration laws of the United States before, on, or after the ~~transition period~~ labor stabilization program period effective date, or under authority of the immigration laws of the Commonwealth before the ~~transition period~~ labor stabilization program period effective date, upon any subject of such order found in the Commonwealth on or after the ~~transition period~~ labor stabilization program period effective date, regardless whether the alien has previously been removed from the United States or the Commonwealth pursuant to such order.

**(6) Special provision regarding long-term residents of the Commonwealth**

**(A) CNMI Resident status**

An alien described in subparagraph (B) may, upon the application of the alien, be admitted in CNMI Resident status to the Commonwealth subject to the following rules:

(i) The alien shall be treated as an alien lawfully admitted to the Commonwealth only, including permitting entry to and exit from the Commonwealth, until the earlier of the date on which-

(I) the alien ceases to reside in the Commonwealth; or

(II) the alien's status is adjusted under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) to that of an alien lawfully admitted for permanent residence in accordance with all applicable eligibility requirements.

(ii) The Secretary of Homeland Security-

(I) shall establish a process for such alien to apply for CNMI Resident status during the 180-day period beginning on a date determined by the Secretary but not later than the first day of the sixth month after June 25, 2019; and

(II) may, in the Secretary's discretion, authorize deferred action or parole, as appropriate, with work authorization, for such alien beginning on June 25, 2019, and continuing through the end of such 180-day period or the date of adjudication of the alien's application for CNMI Resident status, whichever is later.

(iii) Nothing in this subparagraph may be construed to provide any alien granted status under this subparagraph with public assistance to which the alien is not otherwise entitled.

(iv) An alien granted status under this paragraph-

(I) is subject to all grounds of deportability under section 237 of the Immigration and Nationality Act (8 U.S.C. 1227);

(II) is subject to all grounds of inadmissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) if seeking admission to the United States at a port of entry in the Commonwealth;

(III) is inadmissible to the United States at any port of entry outside the Commonwealth, except that the Secretary of Homeland Security may in the Secretary's discretion authorize admission of such alien at a port of entry in Guam for the purpose of direct transit to the Commonwealth, which admission shall be considered an admission to the Commonwealth;

(IV) automatically shall lose such status if the alien travels from the Commonwealth to any other place in the United States, except that the Secretary of Homeland Security may in the Secretary's discretion establish procedures for the advance approval on a case-by-case basis of such travel for a temporary and legitimate purpose, and the Secretary may in the Secretary's discretion authorize the direct transit of aliens with CNMI Resident status through Guam to a foreign place;

(V) shall be authorized to work in the Commonwealth incident to status; and

(VI) shall be issued appropriate travel documentation and evidence of work authorization by the Secretary.

**(B) Aliens described**

An alien is described in this subparagraph if the alien-

(i) was lawfully present on June 25, 2019, or on December 31, 2018, in the Commonwealth under the immigration laws of the United States, including pursuant to a grant of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) or deferred action;

(ii) is admissible as an immigrant to the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), except that no immigrant visa is required;

(iii) resided continuously and lawfully in the Commonwealth from November 28, 2009, through June 25, 2019;

(iv) is not a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau; and

(v) in addition-

(I) was born in the Northern Mariana Islands between January 1, 1974, and January 9, 1978;

(II) was, on November 27, 2009, a permanent resident of the Commonwealth (as defined in section 4303 of title 3 of the Northern Mariana Islands Commonwealth Code, in effect on May 8, 2008);

(III) is the spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of an alien described in subclause (I) or (II);

(IV) was, on November 27, 2011, a spouse, child, or parent of a United States citizen, notwithstanding the age of the United States citizen, and continues to have such family relationship with the citizen on the date of the application described in subparagraph (A); or

(V) had a grant of parole under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) on December 31, 2018, under the former parole program for certain in-home caregivers administered by United States Citizenship and Immigration Services.

### **(C) Authority of Attorney General**

Beginning on the first day of the 180-day period established by the Secretary of Homeland Security under subparagraph (A)(ii)(I), the Attorney General may accept and adjudicate an application for CNMI Resident status under this paragraph by an alien who is in removal proceedings before the Attorney General if the alien-

(i) makes an initial application to the Attorney General within such 180-day period; or

(ii) applied to the Secretary of Homeland Security during such 180-period<sup>2</sup> and before being placed in removal proceedings, and the Secretary denied the application.

### **(D) Judicial review**

Notwithstanding any other law, no court shall have jurisdiction to review any decision of the Secretary of Homeland Security or the Attorney General on an application under this paragraph or any other action or determination of the Secretary of Homeland Security or the Attorney General to implement, administer, or enforce this paragraph.

### **(E) Procedure**

The requirements of chapter 5 of title 5 (commonly referred to as the Administrative Procedure Act), or any other law relating to rulemaking, information collection or publication in the Federal Register shall not apply to any action to implement, administer or enforce this paragraph.

### **(f) Effect on other laws**

The provisions of this section and of the immigration laws, as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)), shall, on the ~~transition program~~ labor stabilization program effective date, supersede and replace all laws, provisions, or programs of the Commonwealth relating to the admission of aliens and the removal of aliens from the Commonwealth.

**(g) Accrual of time for purposes of section 212(a)(9)(B) of the Immigration and Nationality Act**

No time that an alien is present in the Commonwealth in violation of the immigration laws of the Commonwealth shall be counted for purposes of inadmissibility under section 212(a)(9)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(9)(B)).

**(h) Report on nonresident guestworker population**

The Secretary of the Interior, in consultation with the Secretary of Homeland Security, and the Governor of the Commonwealth, shall report to the Congress not later than 2 years after May 8, 2008. The report shall include-

- (1) the number of aliens residing in the Commonwealth;
- (2) a description of the legal status (under Federal law) of such aliens;
- (3) the number of years each alien has been residing in the Commonwealth;
- (4) the current and future requirements of the Commonwealth economy for an alien workforce; and
- (5) such recommendations to the Congress, as the Secretary may deem appropriate, related to whether or not the Congress should consider permitting lawfully admitted guest workers lawfully residing in the Commonwealth on May 8, 2008, to apply for long-term status under the immigration and nationality laws of the United States.

**(i) Definitions**

In this section:

**(1) Commonwealth**

The term "Commonwealth" means the Commonwealth of the Northern Mariana Islands.

**(2) ~~Commonwealth Only Transition Worker~~ Commonwealth Only Worker**

The term "~~Commonwealth Only Transition Worker~~" "Commonwealth Only Worker" means an alien who has been admitted into the Commonwealth under the ~~transition program~~ labor stabilization program and is eligible for a permit under subsection (d)(3).

**(3) Governor**

The term "Governor" means the Governor of the Commonwealth of the Northern Mariana Islands.

**(4) Secretary**

The term "Secretary" means the Secretary of Homeland Security.

**(5) Tax year**

The term "tax year" means the fiscal year immediately preceding the current fiscal year.

**(6) United States worker**

The term "United States worker" means any worker who is-

(A) a citizen or national of the United States;

(B) an alien who has been lawfully admitted for permanent residence; or

(C) a citizen of the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau (known collectively as the "Freely Associated States") who has been lawfully admitted to the United States pursuant to-

(i) section 141 of the Compact of Free Association between the Government of the United States and the Governments of the Marshall Islands and the Federated States of Micronesia (48 U.S.C. 1921 note); or

(ii) section 141 of the Compact of Free Association between the United States and the Government of Palau (48 U.S.C. 1931 note).

## **8 USC §1641. Definitions**

### **(a) In general**

Except as otherwise provided in this chapter, the terms used in this chapter have the same meaning given such terms in section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)].

### **(b) Qualified alien**

For purposes of this chapter, the term "qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is-

- (1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C. 1101 et seq.],
- (2) an alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],
- (3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157],
- (4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year,
- (5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104–208) or section 241(b)(3) of such Act [8 U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104–208),
- (6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7)] as in effect prior to April 1, 1980,
- (7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980), ~~or~~
- (8) an individual who lawfully resides in the United States in accordance with a Compact of Free Association referred to in section 1612(b)(2)(G) of this title, ~~or~~
- (9) an alien who is admitted to the Commonwealth of the Northern Mariana Islands as a Commonwealth only Worker.

**A Joint Resolution to approve the “Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America”**

**Section 703.**

(a) The United States will make available to the Northern Mariana Islands the full range of federal programs and services available to the territories of the United States. Funds provided under Section 702 will be considered to be local revenues of the Government of the Northern Mariana Islands when used as the local share required to obtain federal programs and services.

(b) There will be paid into the Treasury of the Government of the Northern Mariana Islands, to be expended to the benefit of the people thereof as that Government may by law prescribe, the proceeds of all customs duties and federal income taxes derived from the Northern Mariana Islands, the proceeds of all taxes collected under the internal revenue laws of the United States on articles produced in the Northern Mariana Islands and transported to the United States, its territories or possessions, or consumed in the Northern Mariana Islands, the proceeds of any other taxes which may be levied by the Congress on the inhabitants of the Northern Mariana Islands, and all quarantine, passport, immigration and naturalization fees collected in the Northern Mariana Islands, except that nothing in this Section shall be construed to apply to any tax imposed by Chapters 2 or 21 of Title 26, United States Code.

## **8 USC §1225. Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing**

### **(a) Inspection**

#### **(1) Aliens treated as applicants for admission**

An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

#### **(2) Stowaways**

An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 1158 of this title or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 1229a of this title.

#### **(3) Inspection**

All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.

#### **(4) Withdrawal of application for admission**

An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.

#### **(5) Statements**

An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

### **(b) Inspection of applicants for admission**

#### **(1) Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled**

## **(A) Screening**

### **(i) In general**

If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title, the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution.

### **(ii) Claims for asylum**

If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 1182(a)(6)(C) or 1182(a)(7) of this title and the alien indicates either an intention to apply for asylum under section 1158 of this title or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

### **(iii) Application to certain other aliens**

#### **(I) In general**

The Attorney General may apply clauses (i) and (ii) of this subparagraph to any or all aliens described in subclause (II) as designated by the Attorney General. Such designation shall be in the sole and unreviewable discretion of the Attorney General and may be modified at any time.

#### **(II) Aliens described**

An alien described in this clause is an alien who is not described in subparagraph (F), who has not been ~~— admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.~~

(aa) admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph; or

(bb) admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the Commonwealth of the Northern Mariana Islands continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.

## **8 USC §1182. Inadmissible aliens**

### **(9) Aliens previously removed**

#### **(A) Certain aliens previously removed**

##### **(i) Arriving aliens**

Any alien who has been ordered removed under section 1225(b)(1) of this title or at the end of proceedings under section 1229a of this title initiated upon the alien's arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

##### **(ii) Other aliens**

Any alien not described in clause (i) who-

(I) has been ordered removed under section 1229a of this title or any other provision of law, or

(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien's departure or removal (or within 20 years of such date in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

##### **(iii) Exception**

Clauses (i) and (ii) shall not apply to an alien seeking admission within a period if, prior to the date of the alien's reembarkation at a place outside the United States or attempt to be admitted from foreign contiguous territory, the Attorney General has consented to the alien's reapplying for admission.

#### **(B) Aliens unlawfully present**

##### **(i) In general**

Any alien (other than an alien lawfully admitted for permanent residence) who-

(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 1254a(e) of this title) prior to the commencement of proceedings under section 1225(b)(1) of this title or section 1229a of this title, and again seeks admission within 3 years of the date of such alien's departure or removal, or

(II) has been unlawfully present in the United States for one year or more, and who again seeks admission within 10 years of the date of such alien's departure or removal from the United States, is inadmissible.

## **(ii) Construction of unlawful presence**

For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Attorney General or is present in the United States without being admitted or paroled.

## **(iii) Exceptions**

### **(I) Minors**

No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

### **(II) Asylees**

No period of time in which an alien has a bona fide application for asylum pending under section 1158 of this title shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.

### **(III) Family unity**

No period of time in which the alien is a beneficiary of family unity protection pursuant to section 301 of the Immigration Act of 1990 shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

### **(IV) Battered women and children**

Clause (i) shall not apply to an alien who would be described in paragraph (6)(A)(ii) if "violation of the terms of the alien's nonimmigrant visa" were substituted for "unlawful entry into the United States" in subclause (III) of that paragraph.

### **(V) Victims of a severe form of trafficking in persons**

Clause (i) shall not apply to an alien who demonstrates that the severe form of trafficking (as that term is defined in section 7102 of title 22) was at least one central reason for the alien's unlawful presence in the United States.

### **(VI) Commonwealth Only Worker.**—Clause (i) shall not apply to an alien who—

(aa) was admitted as a Commonwealth Only Transitional Worker prior to the fiscal year 2020;

(bb) was unlawfully present in the United States for a period of less than 5 years prior to the date of enactment of the ‘Northern Mariana Islands Labor Stabilization Act’; and

(cc) has continuously resided in the Commonwealth of the Northern Mariana Islands beginning in fiscal year 2019 through the date of the enactment of the ‘Northern Mariana Islands Labor Stabilization Act.’

**(iv) Tolling for good cause**

In the case of an alien who-

(I) has been lawfully admitted or paroled into the United States,

(II) has filed a nonfrivolous application for a change or extension of status before the date of expiration of the period of stay authorized by the Attorney General, and

(III) has not been employed without authorization in the United States before or during the pendency of such application, the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

**(v) Waiver**

The Attorney General has sole discretion to waive clause (i) in the case of an immigrant who is the spouse or son or daughter of a United States citizen or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Attorney General that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse or parent of such alien. No court shall have jurisdiction to review a decision or action by the Attorney General regarding a waiver under this clause.