

NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIRST SPECIAL SESSION, 2015

S. B. NO. 19-31

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A BILL FOR AN ACT

To amend 2 CMC § 2122(a) to eliminate passenger facility charges on inter-island flights between Saipan, Tinian, and Rota; and for other purposes.

BE IT ENACTED BY THE NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1           **Section 1. Findings and Purpose.** The Legislature finds that passenger facility  
2 charge (PFC) is a charge imposed by a public agency on passengers enplaned at a  
3 commercial airport it controls. *See* 14 CFR § 158.3. Public agencies may use PFC  
4 revenue, including interest earned after such revenue has been remitted to a public  
5 agency, *only* to finance the allowable costs of approved projects at any airport the public  
6 agency controls. *See* § 14 CFR 158.13.

7           The Legislature finds that the Commonwealth Ports Authority (CPA) is the public  
8 agency that operates and manages all the Commonwealth airports. In order to fund  
9 several capital improvement projects at the Commonwealth airports, CPA obtained  
10 approval from the Federal Aviation Administration (FAA) to impose a \$4.50 PFC per  
11 person per one way flight for all flights to and from the Saipan, Tinian, and Benjamin  
12 Rota International Airports in the Commonwealth including inter-island flights between  
13 Saipan, Tinian, and Rota.

14           The Legislature finds that CPA failed to consider the adverse financial impact  
15 of the PFC charge on residents traveling inter-island from Saipan, Tinian, and Rota. It is  
16 common knowledge that Tinian and Rota do not have a hospital and other health and  
17 dental clinics to service the needs of their residents. Tinian and Rota do not have an  
18 institution of higher learning such as the Northern Marianas College for their college

1 students. Tinian and Rota's grocery and department stores are limited and the cost of  
2 goods is extremely high on each respective island. There are hundreds of reasons why the  
3 residents of Tinian and Rota might need to travel to Saipan and vice versa. However, the  
4 expensive airfare tickets make it cost prohibitive for many people to travel inter-island  
5 within the Commonwealth.

6 The Legislature finds that one reason for the high cost of airfare tickets is the  
7 passenger facility charge of \$4.50 per person one way or \$9.00 round trip. The PFC is  
8 added to the total cost of the airfare ticket, in addition to the Departure Facility Service  
9 Charges (DFSCs) of \$4.95 per passenger enplaned from Tinian and Rota, and \$3.35 per  
10 passenger enplaned from Saipan's Commuter Terminal. When the PFCs and DFSCs are  
11 combined, they make up 22% of the total price of transportation from Saipan to Tinian,  
12 27% of the total price of transportation from Tinian to Saipan, 9% of the total price of  
13 transportation between Saipan and Rota, and 10.5% of the total price of transportation  
14 between Rota and Saipan. The Legislature finds that eliminating the PFC may  
15 substantially reduce the cost of inter island transportation especially between Tinian and  
16 Saipan. Passengers between Tinian and Saipan would immediately realize savings in the  
17 cost of airfare tickets if the PFCs were eliminated.

18 The Legislature further finds that eliminating PFCs between inter island flights is  
19 a common practice in other U.S. jurisdictions where a state boundary includes multiple  
20 islands or separate land masses. Specifically, the State of Hawaii prohibits the imposition  
21 of PFCs on its inter island flights, and the State of Alaska prohibits PFCs on flights with  
22 60 passengers or less. *See* 14 CFR §§ 158.9(a)(4) and (5). Under 14 CFR §158.11, a  
23 public agency request may not to require collection of PFCs by a class of air carriers or  
24 foreign air carriers or for service to isolated communities similar to Tinian and Rota.  
25 Section 158.11(a)(2)(ii) specifically provides that "in a community that has a population  
26 of less than 10,000 and is not connected by a land highway or vehicular way to the land-  
27 connected National Highway System within a State." Tinian and Rota, whose

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1 populations are less than 4,000 on each island, fall squarely within the foregoing  
2 definition of an isolated community within the Commonwealth.

3 The Legislature is cognizant of the possible loss of revenue to CPA if the PFCs  
4 were eliminated between inter island flights. However, the Legislature finds that any loss  
5 of revenue may be offset with new revenue that will result from the increased inter island  
6 travel activities as a result of the cheaper airfare tickets. If the airfare tickets are cheaper,  
7 more residents and visitors will travel inter island. This is a win-win situation because  
8 residents and visitors will save money on inter island travel, and CPA and the local  
9 economies will experience a financial boost from the increased travel activities.  
10 Accordingly, the purpose of this legislation is to establish a policy to eliminate PFCs on  
11 inter island flights between Saipan, Tinian, and Rota.

12 **Section 2. Amendment.** 2 CMC § 2122(a) is hereby amended to read as follows:

13 **“§ 2122. Commonwealth Ports Authority: Powers and Duties.**

14 In addition to the powers and duties elsewhere conferred and imposed, the  
15 authority shall have the following powers and duties:

16 (a) To carry on the business of acquiring, establishing, developing,  
17 extending, maintaining, operating and managing ports, with all powers incident  
18 thereto; provided that the authority shall not have the power to impose a  
19 passenger facility charge, pursuant to 14 CFR § 158, on inter-island flights  
20 between Saipan, Tinian, and Rota.”

21 **Section 3. Severability.** If any provision of this Act or the application of any  
22 such provision to any person or circumstance should be held invalid by a court of  
23 competent jurisdiction, the remainder of this Act or the application of its provisions to  
24 persons or circumstances other than those to which it is held invalid shall not be affected  
25 thereby.

26 **Section 4. Savings Clause.** This Act and any repealer contained herein shall not  
27 be construed as affecting any existing right acquired under contract or acquired under  
28 statutes repealed or under any rule, regulation or order adopted *under the statutes.*

1 Repealers contained in this Act shall not affect any proceeding instituted under or  
2 pursuant to prior law. The enactment of this Act shall not have the effect of terminating,  
3 or in any way modifying, any liability civil or criminal, which shall already be in  
4 existence at the date this Act becomes effective.

5 **Section 5. Effective Date.** This Act shall take effect upon its approval by the  
6 Governor or upon its becoming law without such approval.

Date: 04/07/15

Introduced By: /s/ \_\_\_\_\_  
Sen. Jude U. Hofschneider

Reviewed for Legal Sufficiency by:

/s/ Antonette R. Villagomez  
Senate Legal Counsel