

A BILL FOR AN ACT

To amend Title 4, Division 2, Chapter 3 of the Commonwealth Code to add a new Article 3, Financial Instruments in Casino Gaming; to repeal and reenact 6 CMC § 1704; and for other purposes.

**BE IT ENACTED BY THE TWENTIETH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

1 **Section 1. Title.** This Act shall be known as the “Prevention of Fraudulent
2 Misuse of Financial Instruments in Casino Gaming and Other Transactions Act”.

3 **Section 2. Findings and Purpose.**

4 The Legislature finds that the casino gaming industry in the United States has a
5 long history with fraudulent activities including financial fraud. Due to the very nature of
6 the gaming industry, casinos can be exposed to a variety of different fraudulent crimes.
7 Counterfeit money, fake credit cards, phony checks, and applications for credit using
8 stolen identification are all common occurrences in gaming establishments, thereby
9 multiplying their exposure to regulatory scrutiny. The Legislature finds that the
10 possibility of financial fraud increasing in the Commonwealth is tenfold now that all
11 senatorial districts have legalized casino gaming.

12 The Legislature further finds that current Commonwealth laws regarding financial
13 instruments and other transactions must be strengthened to deter or discourage fraudulent
14 activities at casinos within the Commonwealth especially in Saipan where the exclusive
15 casino license holder has established a vibrant and lucrative gaming operation which is
16 spurring economic growth in gaming and non-gaming activities and ventures. The
17 Legislature also finds that current Commonwealth laws require further amendment to
18 provide better protection for the Commonwealth’s gaming industry as well as for all
19 other persons who engage in commercial enterprises and commercial transactions within
20 the Commonwealth. Accordingly, the purpose of this legislation is strengthen the

1 protections against the fraudulent misuse of financial instruments in casino gaming and
2 other transactions in the Commonwealth.

3 **Section 3. Amendment.** Title 4, Division 2, Chapter 3 is hereby amended by
4 adding a new article 3 to read as follows:

5 **“Article 3. Financial Instruments in Casino Gaming.**

6 **§ 2331. Definitions.** As used in this Act, the term:

7 (a) “Casino credit instrument” means a gaming guarantee, marker, or any other
8 writing which evidences a gaming debt owed to a person who holds a casino gaming
9 license in any senatorial district of the Commonwealth and includes any writing taken in
10 consolidation, redemption or payment of a previous credit instrument.

11 (b) “Commission” means the casino gaming commission authorized to regulate a
12 casino gaming licensee in each respective senatorial district of the Commonwealth.

13 (c) “Credit” means an arrangement or understanding with a person, firm,
14 corporation, bank or depository for the payment of a check or other written instrument
15 evidencing a debt.

16 (d) “Gaming debt” means a debt, evidenced by a writing, which is incurred from
17 gambling or participation in a lawful game or other lawful wagering activity offered by a
18 casino licensee in a senatorial district of the Commonwealth. It also includes a debt,
19 evidenced by a writing, which is owed to an authorized junket operator by a person who
20 traveled to the Commonwealth as part of a junket for gambling or participation in a
21 lawful game or other lawful wagering activity offered by a casino licensee in a senatorial
22 district of the Commonwealth.

23 (e) “Gaming guarantee” means a promissory note or any other written promise
24 accepted by a licensee as security for extending credit to an identified patron for gaming
25 purposes in which the maker or signer unconditionally guarantees payment to the licensee
26 of the full amount of the credit extended to and used by the identified patron. The term
27 does not include a check as defined by 5 CMC § 3104.

28 (f) “Licensee” or Casino Licensee” means any person, corporation or other entity
29 that holds a lawful casino gaming license in any senatorial district of the Commonwealth.

1 (g) "Marker" means a dated instrument bearing the following information: the
2 name of the player; the name, location, and account number of the player's bank; and the
3 instruction 'Pay to the Order of' the casino for a specific value in United States dollars.
4 The marker also contains a stipulation whereby the maker represents that the amount
5 drawn by the marker is on deposit in the referenced financial institution, and that the
6 maker guarantees payment.

7 (h) Unless provided otherwise in this Act or other statute, the definitions in 5
8 CMC §3102 shall apply with respect to financial documents or financial disputes
9 involving or relating to a casino licensee in any senatorial district.

10 **§ 2332. Gaming Debt.**

11 (a) Any gaming debt which is evidenced by a casino credit instrument is valid and
12 enforceable in any administrative, civil or criminal proceeding. Any gaming debt not
13 evidenced by a casino credit instrument is void and unenforceable and does not give rise
14 to any administrative, civil, or criminal enforcement unless provided otherwise herein or
15 in 6 CMC §1704.

16 (b) Any "marker" issued by a lawful casino licensee shall be the same as a check
17 defined by 5 CMC §3104 and all Commonwealth laws applicable to a check defined by 5
18 CMC § 3104 are applicable to a "marker" which includes, but is not limited to, the
19 provisions of 7 CMC § 2442.

20 **§ 2333. Casino credit instruments.** The following shall apply to casino credit
21 instruments:

- 22 (a) A licensee or a person acting on behalf of a licensee:
- 23 (1) May accept a casino credit instrument that is payable to an affiliated
 - 24 company or may complete a casino credit instrument in the name of an affiliated
 - 25 company as payee if the casino credit instrument otherwise complies with this
 - 26 subsection and the records of the affiliated company pertaining to the casino
 - 27 credit instrument are made available to agents of the Commission upon request.
 - 28 (2) May accept a casino credit instrument either before, at the time of, or
 - 29 after the patron incurs the debt.

1 (b) The casino credit instrument and the debt that the casino credit instrument
2 represents are enforceable without regard to whether the casino credit instrument was
3 accepted before, at the time of, or after the debt is incurred.

4 (c) This section does not prohibit the establishment of an account by deposit of
5 cash, recognized traveler's check, or any other instrument which is equivalent to cash.

6 (d) If a casino credit instrument is lost or destroyed, the debt represented by the
7 credit instrument may be enforced if the licensee or person acting on behalf of the
8 licensee pursuant to a written authorization can prove the existence of the casino credit
9 instrument.

10 (e) A patron's claim of having a mental or behavioral disorder involving
11 gambling:

12 (1) Is not a defense in any civil or administrative action based on or
13 arising out of a casino credit instrument or the debt that the casino credit
14 instrument represents; and

15 (2) Is not a valid counterclaim to any civil or administrative enforcement
16 or collection action.

17 (f) A casino licensee in any senatorial district or a person acting on behalf of a
18 casino licensee may accept an incomplete casino credit instrument provided that it:

19 (1) is signed by a patron;

20 (2) states the credit limit being offered or that there is no credit
21 limit;

22 (3) states the interest rate and any fees to be incurred;

23 (4) advises the patron that the principal debt amount will be filled
24 in after play is completed and the debt is incurred; and

25 (5) states that the patron will also be responsible for paying
26 interest as it accrues as well as collection fees listed.

27 (g) Casino credit instruments that leave open the final amount of the debt when
28 signed by the patron and that are then filled in by the licensee when play is complete are
29 enforceable.

1 (h) The appropriate regulatory commission or agency in each Senatorial District
2 may adopt regulations prescribing the conditions under which a casino credit instrument
3 may be redeemed or presented to a bank, credit union or other financial institution for
4 collection or payment.

5 (i) The failure of a licensee or any other person to comply with the provisions of
6 this section or any applicable regulation promulgated by a governmental regulatory
7 agency does not invalidate a casino credit instrument or affect the ability to enforce the
8 casino credit instrument or the debt that the casino credit instrument represents.

9 **§ 2334. Applicability.** The provisions of this Act shall apply to any lawful casino
10 licensee in any senatorial district.”

11 **Section 4. Repealer and Reenactment.** 6 CMC § 1704 is hereby repealed and re-
12 enacted as follows:

13 **“§1704. Misuse of Financial Instruments.**

14 (a) A person commits an offense if the person misuses a credit card to obtain
15 property, services or a valuable benefit from one or more individuals, any governmental
16 entity, a casino licensee, or a corporation or any other entity.

17 (b) A person misuses a credit card if the person uses a credit card for the purpose
18 of obtaining property, services, or a valuable benefit with knowledge at the time of the
19 transaction that:

20 (1) the card is stolen or forged; or

21 (2) the card has been revoked, cancelled, or the transaction exceeds the
22 card’s credit limit; or

23 (3) the person using the card is unauthorized by the issuer; or (4) the
24 person using the card has obtained consent from the person in whose name the
25 card is issued by use of a threat of violence or bodily harm, physical intimidation
26 or physical coercion.

27 (c) A person who, willfully and with the intent to defraud, signs, issues or passes a
28 check, marker, or similar sight order for the payment of money, to obtain:

29 (1) money;

- 1 (2) property;
2 (3) services;
3 (4) a valuable benefit, or
4 (5) the extension of credit in a business or consumer transaction or in a
5 transaction with a casino licensee in any Senatorial District in the
6 Commonwealth

7 drawn upon any real or fictitious person, bank, firm, partnership, corporation or
8 depository, when the person has insufficient money, property or credit with the drawee of
9 the instrument to pay it in full upon its presentation commits an offense of theft.

10 (d) In a criminal action arising out of or based on a violation of subsection (c) of
11 this section, the intent to defraud or engage in theft and knowledge that the casino credit
12 instrument, check or other similar sight order for payment will be dishonored or not paid
13 is presumed to exist if:

14 (1) the instrument is drawn on a purported account which does not exist;

15 or

16 (2) a written demand for payment was sent to the maker by certified or
17 registered mail in accordance with 7 CMC § 2442 which demand shall contain the
18 conspicuous notices for treble damages and payment of attorney's fees and the
19 maker failed to pay the dishonored instrument in full plus any bank charges
20 incurred by the payee within 30 days of the maker's receipt of the mailing; or

21 (3) a mailing which complies with 7 CMC § 2442, but is returned because
22 of no delivery or the maker's failure to claim the mailing from the appropriate
23 postal authorities.

24 This presumption is not conclusive but is proof of intent and knowledge which
25 can be rebutted by the drawer or maker. This subsection shall not apply to any post-dated
26 check, post-dated marker, or other similar sight order for payment which is post-dated.

27 (e) Except as otherwise provided in this subsection, a person who willfully and
28 with the intent to defraud, signs a gaming guarantee, promissory note, an IOU, a post-
29 dated check, or makes any written promise to pay on a future date, for purposes of

1 obtaining:

- 2 (1) money;
- 3 (2) property;
- 4 (3) services;
- 5 (4) a valuable benefit, or
- 6 (5) the extension of credit in a business or consumer transaction or in a
- 7 transaction with a casino licensee in any Senatorial District in the
- 8 Commonwealth

9 knowing that payment will not be made upon presentation or when due, is guilty of the

10 offense of theft.

11 In a criminal action arising out of or based on a violation of this subsection, the

12 intent to defraud or engage in theft will be presumed to exist if payment is not made

13 when due or upon presentment and remains unpaid for 30 days after payment is due or

14 after presentment.

15 This presumption is not conclusive but is proof of intent and knowledge which

16 can be rebutted by the drawer or maker. For purposes of this subsection, a payment not

17 made when due or upon presentment shall immediately begin accruing interest at the rate

18 of 12% per annum and payment in full must include payment of the accrued interest.

19 (f) With respect to any criminal action arising out of or based on a violation of

20 subsections (c) or (e):

21 (1) The presumption of intent and knowledge is not conclusive, but is

22 proof of intent and knowledge which can be rebutted by the preponderance of the

23 evidence at trial.

24 (2) The Attorney General's Office, upon written request from a casino

25 licensee in any senatorial district or any other person who is victimized by a

26 violation of a subsection (c) or (e), may, in its sole discretion, agree to pursue

27 criminal action against the alleged perpetrator. Any such written request must

28 involve a sum of \$100,000.00 or greater and must contain the following

29 representations:

1 (i) the debt is evidenced by a writing signed by the alleged
2 perpetrator,

3 (ii) there has not been any violation of the Federal Fair Debt
4 Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692-1692o,

5 (iii) the prerequisite for establishing the rebuttal presumption of
6 intent and knowledge have been satisfied, and

7 (iv) the alleged perpetrator has signed an extradition waiver if the
8 alleged perpetrator resides outside the Commonwealth or is otherwise
9 living outside of the Commonwealth.

10 (3) Ten percent (10%) of the principal debt plus interest and liquidated
11 damages, if any, recovered as restitution or paid as part of a pre-trial disposition
12 or paid by the alleged perpetrator to the victim, directly or indirectly, after the
13 Attorney General has decided in writing to pursue a criminal action shall belong
14 to the Commonwealth. Of the ten percent (10%) due the Commonwealth, five
15 percent (5%) shall be paid to the general fund and five percent (5%) shall be
16 retained by the Office of the Attorney General for use solely for the recruitment
17 and training of its professional staff and the acquisition of office equipment and
18 supplies.

19 (4) The amount of the loss for purposes of a criminal action brought
20 pursuant to subsection (c) shall be the treble damage amount allowable by 7 CMC
21 § 2442.

22 (5) A conviction under either subsection (c) or (e) shall be punishable by 6
23 CMC § 1601(b). In addition to any other penalty, the court shall order the
24 convicted person to pay restitution.

25 (6) If a complainant causes a criminal action to be commenced under
26 subsection (c) or (e) but refuses to testify in the action or otherwise refuses to
27 cooperate in the prosecution, then the complainant is presumed to have acted
28 maliciously and without probable cause. This presumption is not conclusive but is
29 subject to rebuttal by a preponderance of the evidence.

1. (7) A prosecution request under subsection (f)(2) cannot be made by a
2 governmental official or governmental entity.

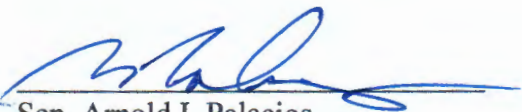
3 **Section 5. Repealer.** All inconsistent prior laws are hereby repealed.

4 **Section 6. Severability.** If any provision of this Act or the application of any
5 such provision to any person or circumstance should be held invalid by a court of
6 competent jurisdiction, the remainder of this Act or the application of its provisions to
7 persons or circumstances other than those to which it is held invalid shall not be affected
8 thereby.

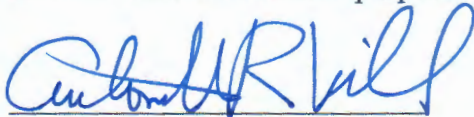
9 **Section 7. Savings Clause.** This Act and any repealer contained herein shall not
10 be construed as affecting any existing right acquired under contract or acquired under
11 statutes repealed or under any rule, regulation, or order adopted under the statutes.
12 Repealers contained in this Act shall not affect any proceeding instituted under or
13 pursuant to prior law. The enactment of the Act shall not have the effect of terminating,
14 or in any way modifying, any liability, civil or criminal, which shall already be in
15 existence on the date this Act becomes effective.

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

Date: 4/19/18

Introduced By: 
Sen. Arnold I. Palacios

Reviewed for introduction purposes by:


Senate Legal Counsel