

Statement of Frederick P. Deleon Guerrero
Chairman, Standing Committee on Federal and Foreign Relations
House of Representatives
17th Northern Marianas Commonwealth Legislature
Before the House Subcommittee on Insular Affairs, Oceans and Wildlife
Regarding Oversight Hearing on "The Implementation of Public Law 110-229
to the Commonwealth of the Northern Mariana Islands and Guam"

May 18, 2010

Madam Chair and members of the House Subcommittee on Insular Affairs, Oceans and Wildlife, it is a privilege to appear before you today to present testimony on "The Implementation of Public Law 110-229 to the Commonwealth of the Northern Mariana Islands and Guam".

The following are areas of concern that have been raised by members of the public:

1. The area of greatest concern is the lack of regulations implementing the programs applicable to the Commonwealth of the Northern Mariana Islands. Although the transition date under Public Law 110-229 was November 28, 2009, the regulations have not been promulgated in respect to programs applicable only to the Commonwealth, temporary workers and investors. Without regulations in place, businesses are unable to plan for their future employment needs. Employers do not know how the foreign workers will be allocated among the employers and are uncertain as to the future availability of foreign workers.
2. The Commonwealth has a shortage of medical professionals. With the high demand for medical professional in the 50 States, it is difficult to recruit medical professionals. We could employ foreign trained professionals, however our hospital has been advised that medical doctors who have not passed the U.S. Medical Board Examinations are considered excludable aliens, and although they may qualify for CNMI only worker status, they will be denied a visa by the State Department.
3. The establishment of prevailing wage rates by the Department of Labor has been delayed. Historically, wage rate data was available in respect to temporary alien workers. Wage rate data for non alien employees has not been compiled. There is uncertainty as to the wages and other terms and conditions in respect to the employment of foreign workers.
4. There is a fundamental difference between the Commonwealth's prior immigration policies and the policies underlying the federal Immigration and Nationality Act. The Commonwealth through its Constitution prohibited the granting of any permanent residence to aliens. One of the results of this prohibition was that temporary foreign workers were used to fill permanent employment needs. Under U.S. immigration laws, temporary foreign workers may only fill temporary employment needs. The Commonwealth does not have a sufficient permanent work force to meet the permanent employment needs. The problem is compounded by a significant amount of the

permanent employment needs being for low skilled positions which can not be filled through employment based permanent residency.

5. Applications for employment based visas require a labor certification by the U.S. Department of Labor. In Guam, the labor certification function is performed by the Guam Department of Labor. Is it possible for the Commonwealth Department of Labor to become approved by the U.S. Department of Labor to perform the labor certification functions for employment in the Commonwealth?

6. The recent report by the Department of Interior recommends a more permanent status for foreign workers who have been in the Commonwealth for 5 years or more. The report has caused confusion and misunderstandings in the community. A number of foreign workers have the misconception that an improved immigration status will in fact take place and have taken actions which may jeopardize their eligibility for any U.S. immigration status. Some foreign workers believe that they need not comply with their existing employment contracts, breaching their contracts and engaging in unauthorized employment.

7. Since the regulations for the CNMI foreign worker program are not in effect, there has been little actual experience in filing applications for foreign worker permits. Employers are beginning to realize that the application process will not take place locally but will follow same three step process involving the U.S. Department of Labor, Department Homeland Security and the State Department. Once regulations are in place and employers begin processing applications, further problems are likely to surface relating to the implementation of Public Law 110-229.

Thank you for the opportunity to participate in the oversight process and have our views heard by the Subcommittee.

Resume of Fredrick Peters Deleon Guerrero

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