

Public Law 98-454
98th Congress

An Act

Oct. 5, 1984
[H.R. 5561]

To enhance the economic development of Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Appropriation
authorization.

SEC. 101. From the sums authorized to be appropriated to the Secretary of the Interior for technical assistance to the territories there may be appropriated not to exceed \$2,000,000 for each of fiscal years 1985, 1986, and 1987 for technical assistance (including but not limited to management, marketing, and finance) in developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

Report.

SEC. 102. The Secretary of the Interior is authorized and directed to report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate not later than January 1 of fiscal years 1985, 1986, and 1987 on the executive branch's efforts regarding and recommendations for developing private enterprises in Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

TITLE II

SEC. 201. (a) Subsection (b) of section 8 of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1574) is amended—

Taxes.

(1) by striking out "shall be sold at public sale and" in the fourth sentence of paragraph (i), and

(2) by adding at the end thereof the following new paragraph:

26 USC 103.

"(iii)(A) The legislature of the government of the Virgin Islands may cause to be issued after September 30, 1984, industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

"(B) Except as provided in subparagraph (C), any obligation issued under subparagraph (A) and the income from such obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

Prohibition.

"(C) Any obligation issued under subparagraph (A) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

"(D) For purposes of this paragraph—

"(I) The term 'State' includes the District of Columbia.

"(II) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.

"(E) For exclusion of interest for purposes of Federal income taxation, see section 103 of the Internal Revenue Code of 1954."

26 USC 103.
48 USC 1670.

SEC. 202. (a) The legislature of the government of American Samoa may cause to be issued after September 20, 1984, industrial development bonds (within the meaning of section 103(b)(2) of the Internal Revenue Code of 1954).

(b)(1) Except as provided in paragraph (2), any obligation shall be exempt from all State and local taxation in effect on or after October 1, 1984.

Taxes.

(2) Any obligation issued under subsection (a) shall not be exempt from State or local gift, estate, inheritance, legacy, succession, or other wealth transfer taxes.

Prohibition.

(3) For purposes of this subsection—

(A) The term "State" includes the District of Columbia.

(B) The taxes imposed by counties, municipalities, or any territory, dependency, or possession of the United States shall be treated as local taxes.

(c) For exclusion of interest for purposes of Federal income taxation, see section 103 of the Internal Revenue Code of 1954.

SEC. 203. Section 11 of the Organic Act of Guam (64 Stat. 387, 48 U.S.C. 1423a), as amended, is amended by inserting, immediately before the sentence that begins with the words "Should the Guam Power Authority fail to pay", the following language: "At the request of the Board of Directors of the Guam Power Authority for a second refinancing agreement and conditioned on the approval of the Government of Guam pursuant to the law of Guam, and conditioned on the establishment of an independent rate-making authority by the Government of Guam, the Secretary may guarantee for purchase by the Federal Financing Bank, on or before December 31, 1984, according to an agreement that shall provide for—

"(a) substantially equal semiannual installments of principal and interest;

"(b) maturity of obligations no later than December 31, 2004;

"(c) authority for the Secretary, should there be a violation of a provision of this legislation, or covenants or stipulations contained in the refinancing document and after giving sixty days notice of such violation to the Guam Power Authority and the Governor of Guam, to dismiss members of the Board of Directors or the general manager of the Guam Power Authority, and (1) appoint in their place members or a general manager who shall serve at the pleasure of the Secretary, or (2) contract for the management of the Guam Power Authority; and

"(d) an annual simple interest rate of seven per centum; and the Federal Financing Bank shall purchase such Guam Power Authority obligations if such Guam Power Authority obligations are issued to refinance the principal amount scheduled to mature on December 31, 1990. Should such second refinancing occur, (1) the independent rate-making authority to be established by the Government of Guam, or in its absence, the Board of Directors of the Guam Power Authority, shall establish rates sufficient to satisfy all financial obligations and future capital investment needs of the Guam Power Authority that shall be consistent with generally accepted rate-making practices of public utilities, and (2) the Government of Guam shall not modify the requirements of such refinancing agreement without

Appropriation
authorizations.

agreement of the Secretary. There are authorized to be appropriated to the Secretary of the Interior for payment to the Federal Financing Bank such sums as are necessary to pay (1) the repurchase payment required under the fifth paragraph of the December 31, 1980, note from the Guam Power Authority to the Federal Financing Bank and any subsequent repurchase payments required under the second refinancing agreement, and (2) the interest rate differential between the seven per centum to be paid by the Guam Power Authority and the second refinancing agreement and the interest rate that would otherwise be determined in accordance with the above cited section 6 of the Federal Financing Bank Act.”.

12 USC 2285.

26 USC 103A
note.

26 USC 103A.

SEC. 204. (a) The Governor of any possession of the United States may for calendar years 1984 and 1985 proclaim a formula (different from that provided by section 103A(g) of the Internal Revenue Code of 1954) for allocating the State ceiling under such section among the governmental units in such possession having authority to issue qualified mortgage bonds (as defined in section 103A(c) of such Code).

(b) The authority provided by subsection (a) shall not apply after the effective date of any legislation with respect to the allocation of the State ceiling enacted by the legislature of the possession after the date of the enactment of this Act.

TITLE III

SEC. 301. Title 46, United States Code, is amended—

97 Stat. 501.

(a) in section 2101 add a new paragraph (3a) to read as follows: “(3a) ‘citizen of the United States’ means a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled in the Northern Mariana Islands within the meaning of section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note).”;

Fish and fishing.
Vessels.
97 Stat. 586.

(b) in section 12106 add the following at the end: “(c) A coastwise license to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

“(1) is less than two hundred gross tons;

“(2) was not built in the United States;

“(3) is eligible for documentation; and

“(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.”; and

Fish and fishing.
Vessels.
97 Stat. 587.

(c) in section 12108 add the following at the end:

“(c) A fishery license to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

“(1) is less than two hundred gross tons;

“(2) was not built in the United States;

“(3) is eligible for documentation; and

“(4) otherwise qualifies under the laws of the United States to be employed in the fisheries.”.

Vessels.
46 USC app.
808a.
46 USC 12101
et seq.

SEC. 302. A vessel that is or was last documented under chapter 121 of title 46, United States Code, may be sold, chartered, leased, mortgaged, or transferred by any other means to a citizen of the

United States (as defined in section 2101 of that title) without the approval of the Secretary of Transportation under section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808).

SEC. 303. The weight limitations contained in subsections (b) and (c) of section 301 above shall not apply to the Northern Mariana Islands until the termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands (61 Stat. 3301).

97 Stat. 501.

46 USC 808.
46 USC 12106
note.
Ante, p. 1734.

TITLE IV

SEC. 401. To further the rehabilitation, upgrading, and construction of public facilities in the territories of the United States—

(a) Section 1(a)(1) of the Act of August 18, 1978 (92 Stat. 487), as amended, is further amended by adding “effective October 1, 1985, \$16,300,000,” before the words “such sums”.

Effective date.

(b)(1) There are authorized to be appropriated \$600,000 in fiscal year 1985 (to remain available until expended) to the Secretary of the Interior who, in consultation with and with the assistance of the Secretary of Transportation, shall use said funds exclusively for planning improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands.

Appropriation
authorization.

(2) Section 303 of the Act of October 19, 1982 (96 Stat. 1705), as amended, is further amended by inserting after “water and power” the words “and improvements for the Alexander Hamilton Airport in St. Croix, Virgin Islands”.

(c) The Secretary of the Interior is authorized and directed, in consultation with and with the assistance of the Secretary of Housing and Urban Development, to study the desirability and feasibility of initiating a program for the development of housing in American Samoa and including the territory in existing Federal housing programs and to submit such recommendations (such recommendations to include, but are not limited to, any changes or modifications which would be necessary to such existing Federal housing programs to adapt them to the culture and traditions of American Samoa) as he may deem appropriate to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of the United States within one year of the date of enactment of this Act.

Housing.

(d) There are authorized to be appropriated \$15,000,000 in fiscal year 1986 (to remain available until expended) to the Secretary of the Interior for grants to the government of Northern Mariana Islands for improvements in the production and distribution of water.

Appropriation
authorization.

TITLE V

SEC. 501. There is hereby conveyed, without consideration, to the Frederick Lutheran Church of Charlotte Amalie, St. Thomas, Virgin Islands, all of the right, title, and interest of the United States in and to parcel numbered 9F, Estate Hospital Ground, Numbered 9 New Quarter, St. Thomas, Virgin Islands (known as Ebenezer Home), and improvements thereof.

Gifts and
property.

SEC. 502. Section 11 of the Revised Organic Act of the Virgin Islands, as amended, is further amended by striking the words “St. Croix, free of rent” and inserting in lieu thereof “Saint Croix, which house, together with land appurtenant thereto is also transferred to the government of the Virgin Islands”.

Gifts and
property.
48 USC 1591.

Energy.
Loans.

SEC. 503. The Department of the Army may remove from American Samoa any of the 4500 kilowatt power plants sent to American Samoa pursuant to the 1974 loan agreement between the Department of the Army and the Department of the Interior, and all charges that may accrue or may have accrued under such agreement shall be excused.

94 Stat. 1782.

Study.

SEC. 504. Section 818(b)(2) of the Military Construction Authorization Act, 1981 (Public Law 96-418) is amended by adding at the end thereof the following: "Reasonable development costs shall be a fixed standard percentage of such monetary consideration received by the Government of Guam. The fixed standard percentage shall be determined by a study, conducted by the Secretary, typical development costs required to convert comparable lands to finished developed sites, except that such percentage shall not exceed 30 percent."

TITLE VI

SEC. 601. To rationalize the application of certain statutes so that the development of the territories of the United States is facilitated—

16 USC 2512.

(a) section 1013 of the Act of November 10, 1978 (92 Stat. 3467) is amended by deleting "subsection" and inserting in lieu thereof "section";

48 USC 1469a.

(b) section 501(d) of the Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes" (91 Stat. 1159), as amended, is further amended by deleting "Samoa" where it appears and inserting in lieu thereof "Samoa, Guam, the Virgin Islands";

42 USC 5318.

(c) section 119(n)(1) of the Act of August 22, 1974 (88 Stat. 633), as amended, is further amended by deleting "Guam" and inserting in lieu thereof "Guam, American Samoa, the Northern Mariana Islands";

16 USC 590q.

(d) section 17(a) of the Act of April 27, 1935 (49 Stat. 163), as amended, is further amended by deleting "Puerto Rico, and the Virgin Islands" and "Puerto Rico and the Virgin Islands" and inserting in lieu thereof "Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the Virgin Islands";

42 USC 6371,
6371g.

(e) the Act of December 22, 1975 (89 Stat. 871), as amended, is amended by deleting "Samoa" in sections 391(a) and 398(b) and inserting in lieu thereof "Samoa, the Northern Mariana Islands";

(f) section 3(4) of the Energy Policy and Conservation Act (42 U.S.C. 6202(4)), is amended to read as follows:

"(4) The term 'State' means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States."

(g) section 513(2) of the National Energy Extension Service Act (42 U.S.C. 7011(2)), is amended to read as follows:

"(2) 'State' means a State, the District of Columbia, Puerto Rico, the Trust Territory of the Pacific Islands, or any territory or possession of the United States."; and

(h) amend the first sentence of section 30 of the Organic Act of Guam (64 Stat. 392, as amended 48 U.S.C. 1421h) by adding after the words "inhabitants of Guam" the following: "(including, but not limited to, compensation paid to members of the Armed Forces and pensions paid to retired civilians and military em-

ployees of the United States, or their survivors, who are residents of, or who are domiciled in, Guam)".

SEC. 602. Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended by adding at the end the following new subsection:

"(l) The requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a nonimmigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Attorney General, the Secretary of State, and the Secretary of the Interior jointly determined that—

"(1) Guam has developed an adequate arrival and departure control system, and

"(2) such a waiver does not represent a threat to the welfare, safety, or security of the United States."

(b) Section 214(a) of such Act (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to Guam without a visa pursuant to section 212(l) may be authorized to enter or stay in the United States other than in Guam or to remain in Guam for a period exceeding fifteen days from date of admission to Guam."

Aliens.

Defense and national security.

Supra.

TITLE VII

VIRGIN ISLANDS

SEC. 701. In section 3 of the Revised Organic Act of the Virgin Islands, as amended (68 Stat. 4981; 48 U.S.C. 1561), the proviso in the next to the last paragraph is amended to read as follows: "Provided, That all offenses against the laws of the United States and the laws of the Virgin Islands which are prosecuted in the district court pursuant to sections 22 (a) and (c) of this Act may be had by indictment by grand jury or by information, and that all offenses against the laws of the Virgin Islands which are prosecuted in the district court pursuant to section 22(b) of this Act or in the courts established by local law shall continue to be prosecuted by information, except such as may be required by local law to be prosecuted by indictment by grand jury."

Law enforcement.
68 Stat. 497.

Post, p. 1738.
48 USC 1612.

Post, p. 1738.

SEC. 702. Section 21 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1611) is amended to read as follows:

Courts, U.S.

"Sec. 21. (a) The judicial power of the Virgin Islands shall be vested in a court of record designated the 'District Court of the Virgin Islands' established by Congress, and in such appellate court and lower local courts as may have been or may hereafter be established by local law.

"(b) The legislature of the Virgin Islands may vest in the courts of the Virgin Islands established by local law jurisdiction over all causes in the Virgin Islands over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the concurrent jurisdiction conferred on the District Court of the Virgin Islands by section 22 (a) and (c) of this Act.

"(c) The rules governing the practice and procedure of the courts established by local law and those prescribing the qualifications and duties of the judges and officers thereof, oaths and bonds, and the times and places of holding court shall be governed by local law or the rules promulgated by those courts."

Courts, U.S.
Crimes and
misdemeanors.
Law
enforcement.

Taxes.

26 USC 7201 *et*
seq.

Post, p. 1741.

48 USC 1612
note.

SEC. 703. (a) Section 22 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1612) is amended to read as follows:

"SEC. 22. (a) The District Court of the Virgin Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States. The District Court of the Virgin Islands shall have exclusive jurisdiction over all criminal and civil proceedings in the Virgin Islands with respect to the income tax laws applicable to the Virgin Islands, regardless of the degree of the offense or of the amount involved, except the ancillary laws relating to the income tax enacted by the legislature of the Virgin Islands. Any act or failure to act with respect to the income tax laws applicable to the Virgin Islands which would constitute a criminal offense described in chapter 75 of subtitle F of the Internal Revenue Code of 1954 shall constitute an offense against the government of the Virgin Islands and may be prosecuted in the name of the government of the Virgin Islands by the appropriate officers thereof in the District Court of the Virgin Islands without the request or the consent of the United States attorney for the Virgin Islands, notwithstanding the provisions of section 27 of this Act.

"(b) In addition to the jurisdiction described in subsection (a) the District Court of the Virgin Islands shall have general original jurisdiction in all causes in the Virgin Islands the jurisdiction over which is not then vested by local law in the local courts of the Virgin Islands: *Provided*, That the jurisdiction of the District Court of the Virgin Islands under this subsection shall not extend to civil actions wherein the matter in controversy does not exceed the sum or value of \$500, exclusive of interest and costs; to criminal cases wherein the maximum punishment which may be imposed does not exceed a fine of \$100 or imprisonment for six months, or both; and to violations of local police and executive regulations. The courts established by local law shall have jurisdiction over the civil actions, criminal cases, and violations set forth in the preceding proviso. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by local law for the purposes of determining the availability of indictment by grand jury or trial by jury.

"(c) The District Court of the Virgin Islands shall have concurrent jurisdiction with the courts of the Virgin Islands established by local law over those offenses against the criminal laws of the Virgin Islands, whether felonies or misdemeanors or both, which are of the same or similar character or part of, or based on, the same act or transaction or two or more acts or transactions connected together or constituting part of a common scheme or plan, if such act or transaction or acts or transactions also constitutes or constitute an offense or offenses against one or more of the statutes over which the District Court of the Virgin Islands has jurisdiction pursuant to subsections (a) and (b) of this section."

(b) The provisions of this section shall not result in the loss of jurisdiction of the District Court of the Virgin Islands over any complaint or proceeding pending in it on the day preceding the effective date of this amendatory Act and such complaint and proceeding may be pursued to final determination in the District Court of the Virgin Islands, the United States Court of Appeals for the Third Circuit, and the Supreme Court, notwithstanding the provisions of this amendatory Act.

SEC. 704. Section 23 of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1613) is amended to read as follows:

Courts, U.S.

"SEC. 23. The relations between the courts established by the Constitution or laws of the United States and the courts established by local law with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States, including the Supreme Court of the United States, and the courts of the several States in such matters and proceedings: *Provided*, That for the first fifteen years following the establishment of the appellate court authorized by section 21(a) of this Act, the United States Court of Appeals for the Third Circuit shall have jurisdiction to review by writ of certiorari all final decisions of the highest court of the Virgin Islands from which a decision could be had. The Judicial Council of the Third Circuit shall submit reports to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives at intervals of five years following the establishment of such appellate court as to whether it has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States from all such final decisions. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this section."

Ante, p. 1737.

Reports.

SEC. 705. The Revised Organic Act of the Virgin Islands is amended by adding to it a new section 23A:

Courts, U.S.

"SEC. 23A. (a) Prior to the establishment of the appellate court authorized by section 21(a) of this Act, the District Court of the Virgin Islands shall have such appellate jurisdiction over the courts of the Virgin Islands established by local law to the extent now or hereafter prescribed by local law: *Provided*, That the legislature may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Virgin Islands or of any order or regulation issued or action taken by the executive branch of the government of the Virgin Islands with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

48 USC 1613a.

"(b) Appeals to the District Court of the Virgin Islands shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The chief judge of the district court shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time to time pursuant to section 24(a) of this Act: *Provided*, That no more than one of them may be a judge of a court established by local law. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in

Post, p. 1740.

accordance with the applicable law or rules of procedure. Appeals pending in the district court on the effective date of this Act shall be heard and determined by a single judge.

"(c) The United States Court of Appeals for the Third Circuit shall have jurisdiction of appeals from all final decisions of the district court on appeal from the courts established by local law. The United States Court of Appeals for the Third Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

Ante, p. 1737.

"(d) Upon the establishment of the appellate court provided for in section 21(a) of this Act all appeals from the decisions of the courts of the Virgin Islands established by local law not previously taken must be taken to that appellate court. The establishment of the appellate court shall not result in the loss of jurisdiction of the district court over any appeal then pending in it. The rulings of the district court on such appeals may be reviewed in the United States Court of Appeals for the Third Circuit and in the Supreme Court notwithstanding the establishment of the appellate court."

Courts, U.S.

SEC. 706. (a) Section 24(a) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(a)) is amended to read as follows:

President of U.S.
Appointments.

"(a) The President shall, by and with the advice and consent of the Senate, appoint two judges for the District Court of the Virgin Islands, who shall hold office for terms of ten years and until their successors are chosen and qualified, unless sooner removed by the President for cause. The judge of the district court who is senior in continuous service and who otherwise qualifies under section 136(a) of title 28, United States Code, shall be the chief judge of the court. The salary of a judge of the district court shall be at the rate prescribed for judges of the United States district courts. Whenever it is made to appear that such an assignment is necessary for the proper dispatch of the business of the district court, the chief judge of the Third Judicial Circuit of the United States may assign a judge of a court of record of the Virgin Islands established by local law, or a circuit or district judge of the Third Judicial Circuit, or a recalled senior judge of the District Court of the Virgin Islands, or the Chief Justice of the United States may assign any other United States circuit or district judge with the consent of the judge so assigned and of the chief judge of his circuit, to serve temporarily as a judge of the District Court of the Virgin Islands. The compensation of the judges of the district court and the administrative expenses of the court shall be paid from appropriations made for the judiciary of the United States."

Crimes and
misdemeanors.

(b) Section 24(b) of the Revised Organic Act of the Virgin Islands (68 Stat. 506; 48 U.S.C. 1614(b)) is amended to read as follows:

18 USC 3001.

28 USC 501.

18 USC app.

"(b) Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and, notwithstanding the provisions of rule 7(a) and of rule 54(a) of the Federal Rules of Criminal Procedure relating to the requirement of indictment and to the prosecution of criminal offenses in the Virgin Islands by information, respectively, the rules of practice heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the district court and appeals therefrom: *Provided*, That the terms 'Attorney for the government' and 'United States attorney' as used in the Federal Rules of Criminal Procedure, shall, when applicable to causes arising under the income tax laws applicable to the Virgin Islands, mean the Attorney General of the Virgin Islands or such

18 USC app.

other person or persons as may be authorized by the laws of the Virgin Islands to act therein: *Provided further*, That in the district court all criminal prosecutions under the laws of the United States, under local law under section 22(c) of this Act, and under the income tax laws applicable to the Virgin Islands may be had by indictment by grand jury or by information: *Provided further*, That an offense which has been investigated by or presented to a grand jury may be prosecuted by information only by leave of court or with the consent of the defendant. All criminal prosecutions arising under local law which are tried in the district court pursuant to section 22(b) of this Act shall continue to be had by information, except such as may be required by the local law to be prosecuted by indictment by grand jury."

Ante, p. 1738.

(c) The provisions of subsection (a) of this section regarding the determination and qualifications of the chief judge of the District Court of the Virgin Islands shall not apply to a person serving as chief judge of said court on the effective date of this Act.

Prohibition.
48 USC 1614
note.

SEC. 707. Section 25 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1615) is amended to read as follows:

Courts, U.S.

"SEC. 25. The Virgin Islands consists of two judicial divisions; the Division of Saint Croix, comprising the island of Saint Croix and adjacent islands and cays, and the Division of Saint Thomas and Saint John, comprising the islands of Saint Thomas and Saint John and adjacent islands and cays. Court for the Division of Saint Croix shall be held in Christiansted, and for the Division of Saint Thomas and Saint John at Charlotte Amalie."

SEC. 708. Section 27 of the Revised Organic Act of the Virgin Islands (68 Stat. 507; 48 U.S.C. 1617) is amended by substituting the words "courts established by local law" for "inferior courts of the Virgin Islands" wherever they appear, and by deleting the last two sentences.

SEC. 709. The Act of May 20, 1932 (47 Stat. 160, 48 U.S.C. 1400) is repealed.

Repeal.

TITLE VIII

GUAM

SEC. 801. Section 22 of the Organic Act of Guam (64 Stat. 389; 48 U.S.C. 1424), as amended, is amended to read as follows:

Courts, U.S.

"SEC. 22. (a) The judicial authority of Guam shall be vested in a court of record established by Congress, designated the 'District Court of Guam,' and such local court or courts as may have been or shall hereafter be established by the laws of Guam in conformity with section 22A of this Act.

Post, p. 1742.

"(b) The District Court of Guam shall have the jurisdiction of a district court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States.

"(c) In addition to the jurisdiction described in subsection (b), the District Court of Guam shall have original jurisdiction in all other causes in Guam, jurisdiction over which is not then vested by the legislature in another court or other courts established by it. In causes brought in the district court solely on the basis of this subsection, the district court shall be considered a court established by the laws of Guam for the purpose of determining the requirements of indictment by grand jury or trial by jury.

48 USC 1424-1.

"SEC. 22A. (a) The local courts of Guam shall consist of such trial court or courts as may have been or may hereafter be established by the laws of Guam. On or after the effective date of this Act, the legislature of Guam may in its discretion establish an appellate court.

Ante, p. 1741.

"(b) The legislature may vest in the local courts jurisdiction over all causes in Guam over which any court established by the Constitution and laws of the United States does not have exclusive jurisdiction. Such jurisdiction shall be subject to the exclusive or concurrent jurisdiction conferred on the District Court of Guam by section 22(b) of this Act.

48 USC 1424-2.

"(c) The practice and procedure in the local courts and the qualifications and duties of the judges thereof shall be governed by the laws of Guam and the rules of those courts.

Supra.

Reports.

"SEC. 22B. The relations between the courts established by the Constitution or laws of the United States and the local courts of Guam with respect to appeals, certiorari, removal of causes, the issuance of writs of habeas corpus, and other matters or proceedings shall be governed by the laws of the United States pertaining to the relations between the courts of the United States, including the Supreme Court of the United States, and the courts of the several States in such matters and proceedings: *Provided*, That for the first fifteen years following the establishment of the appellate court authorized by section 22A(a) of this Act, the United States Court of Appeals for the Ninth Circuit shall have jurisdiction to review by writ of certiorari all final decisions of the highest court of Guam from which a decision could be had. The Judicial Council of the Ninth Circuit shall submit reports to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives at intervals of five years following the establishment of such appellate court as to whether it has developed sufficient institutional traditions to justify direct review by the Supreme Court of the United States from all such final decisions. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

48 USC 1424-3.

Supra.

"SEC. 22C. (a) Prior to the establishment of the appellate court authorized by section 22A(a) of this Act, the District Court of Guam shall have such appellate jurisdiction over the local courts of Guam as the legislature may determine: *Provided*, That the legislature may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of Guam or of any orders or regulations issued or actions taken by the executive branch of the government of Guam with the Constitution, treaties, or laws of the United States, including this Act, or any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the District Court of Guam shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The district judge shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division of any session shall be designated by the presiding judge from among the judges who are serving on, or are assigned to, the district court from time

to time pursuant to section 24 of this Act: *Provided*, That no more than one of them may be a judge of a court of record of Guam. The concurrence of two judges shall be necessary to any decision of the appellate division of the district court on the merits of an appeal, but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

Infra.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection.

"(d) Upon the establishment of the appellate court provided for in section 22A(a) of this Act all appeals from the decisions of the local courts not previously taken must be taken to the appellate court. The establishment of that appellate court shall not result in the loss of jurisdiction of the appellate division of the district court over any appeal then pending in it. The rulings of the appellate division of the district court on such appeals may be reviewed in the United States Court of Appeals for the Ninth Circuit and in the Supreme Court notwithstanding the establishment of the appellate court.

Ante, p. 1742.

"SEC. 22D. Where appropriate, the provisions of part II of title 18 and of title 28, United States Code, and notwithstanding the provision in rule 54(a) Federal Rules of Criminal Procedure relating to the prosecution of criminal offenses on Guam by information, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the District Court of Guam and appeals therefrom; except that the terms, 'Attorney for the government' and 'United States attorney', as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of Guam, including the Guam Territorial income tax, mean the Attorney General of Guam or such other person or persons as may be authorized by the laws of Guam to act therein."

Crimes and misdemeanors.
48 USC 1424-4.
18 USC 3001.
28 USC 501.
18 USC app.

18 USC app.

SEC. 802. Section 24 of the Organic Act of Guam, as amended (64 Stat. 390; 48 U.S.C. 1424b), is amended, by:

(a) substituting in the first paragraph of subsection (a) the words "for the term of ten years" for "for a term of eight years";

(b) substituting in the second paragraph of subsection (a) the words "a local court of record" for "the Island Court of Guam";

(c) inserting in the second paragraph of subsection (a) between the words "ninth circuit" and "or" the words "or a recalled senior judge of the District Court of Guam or of the District Court for the Northern Mariana Islands";

(d) substituting in subsection (b) the numbers "35" and "37" for "31" and "33", respectively; and

(e) deleting subsection (c).

SEC. 803. Section 1 of the Act of August 27, 1954 (68 Stat. 882), is amended by repealing that portion which reads: "that no provisions of any such rules which authorize or require trial by jury or the prosecution of offenses by indictment by a grand jury instead of by information shall be applicable to the District Court of Guam unless

Law enforcement.
48 USC 1424.

and until made so applicable by laws enacted by the Legislature of Guam, and except further”.

TITLE IX

NORTHERN MARIANA ISLANDS

SEC. 901. Section 1 of the Act of November 8, 1977 (91 Stat. 1265, 48 U.S.C. 1694) is amended by—

(a) substituting in subsection (b)(1) the words “for a term of ten years” for “for a term of eight years”;

(b) inserting in subsection (b)(2) between the words “President” and “or”, the words “or a recalled senior judge of the District Court of Guam or of the District Court of the Northern Mariana Islands”; and

(c) substituting the following for subsection (c): “Where appropriate, and except as otherwise provided in articles IV and V of the Covenant approved by the Act of March 24, 1976 (90 Stat. 263), the provisions of part II of title 18 and of titles 28, United States Code, the rules of practice and procedure heretofore or hereafter promulgated and made effective by the Congress or the Supreme Court of the United States pursuant to titles 11, 18, and 28, United States Code, shall apply to the District Court for the Northern Mariana Islands and appeals therefrom; except that the terms ‘Attorney for the government’ and ‘United States attorney’, as used in the Federal Rules of Criminal Procedure, shall, when applicable to cases arising under the laws of the Northern Mariana Islands, include the Attorney General of the Northern Mariana Islands or such other person or persons as may be authorized by the laws of the Northern Mariana Islands to act therein.”

SEC. 902. Section 2(a) of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694a(a)), is amended to read as follows:

“(a) The District Court for the Northern Mariana Islands shall have the jurisdiction of a District Court of the United States, including, but not limited to, the diversity jurisdiction provided for in section 1332 of title 28, United States Code, and that of a bankruptcy court of the United States.”

SEC. 903. Section 3 of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694b) is amended to read as follows:

“Sec. 3. (a) Prior to the establishment of an appellate court for the Northern Mariana Islands the district court shall have such appellate jurisdiction over the courts established by the Constitution or laws of the Northern Mariana Islands as the Constitution and laws of the Northern Mariana Islands provide, except that such Constitution and laws may not preclude the review of any judgment or order which involves the Constitution, treaties, or laws of the United States, including the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (90 Stat. 263) (hereinafter referred to as ‘Covenant’), or any authority exercised thereunder by an officer or agency of the Government of the United States, or the conformity of any law enacted by the legislature of the Northern Mariana Islands or of any orders or regulations issued or actions taken by the executive branch of the government of the Northern Mariana Islands with the Constitution, treaties, or laws of the United States, including the

Crimes and
misdemeanors.
Courts, U.S.

48 USC 1681
note.
18 USC 3001; 28
USC 501.

Courts, U.S.

Courts, U.S.

Supra.

Covenant or with any authority exercised thereunder by an officer or agency of the United States.

"(b) Appeals to the district court shall be heard and determined by an appellate division of the court consisting of three judges, of whom two shall constitute a quorum. The judge appointed for the court by the President shall be the presiding judge of the appellate division and shall preside therein unless disqualified or otherwise unable to act. The other judges who are to sit in the appellate division at any session shall be designated by the presiding judge from among the judges assigned to the court from time to time pursuant to section 1(b)(2) of this Act: *Provided*, That no more than one of them may be a judge of a court of record of the Northern Mariana Islands. The concurrence of two judges shall be necessary to any decision by the appellate division of the district court on the merits of an appeal but the presiding judge alone may make any appropriate orders with respect to an appeal prior to the hearing and determination thereof on the merits and may dismiss an appeal for want of jurisdiction or failure to take or prosecute it in accordance with the applicable law or rules of procedure.

48 USC 1694.

"(c) The United States Court of Appeals for the Ninth Circuit shall have jurisdiction of appeals from all final decisions of the appellate division of the district court. The United States Court of Appeals for the Ninth Circuit shall have jurisdiction to promulgate rules necessary to carry out the provisions of this subsection."

SEC. 904. Section 4 of the Act of November 8, 1977 (91 Stat. 1266; 48 U.S.C. 1694c) is amended by inserting the words, "including the Supreme Court of the United States," between the words "courts of the United States" and "and".

TITLE X

GENERAL PROVISIONS

SEC. 1001. Sections 335, 336 and 402(e) of the Act of November 6, 1978 (92 Stat. 2680, 2682) are repealed.

SEC. 1002. (a) Any judge or former judge who is receiving, or will upon attaining the age of sixty-five years be entitled to receive, payments pursuant to section 373 of title 28, United States Code may elect to become a senior judge of the court on which he served while on active duty.

Repeals.
48 USC 1424,
1612, 1615; 11
USC prec.
101 note.
Courts, U.S.
28 USC 373 note.

(b) The chief judge of a judicial circuit may recall any such senior judge of his circuit, with the judge's consent, to perform in the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands such judicial duties and for such periods of time as the chief judge may specify.

(c) Any act or failure to act by a senior judge performing judicial duties pursuant to this section shall have the same force and effect as if it were the act or failure to act of a judge on active duty; but such senior judge shall not be counted as a judge of the court on which he is serving for purposes of the number of judgeships authorized for that court.

(d) Any senior judge shall be paid, while performing duties pursuant to this section, the same compensation (in lieu of payments pursuant to section 373 of title 28, United States Code) and the same allowances for travel and other expenses as a judge in active service.

(e) Senior judges under subsection (a) of this section shall at all times be governed by the code of judicial conduct for the United

Law
enforcement.

States judges, approved by the Judicial Conference of the United States.

(f) Any person who has elected to be a senior judge under subsection (a) of this section and who thereafter—

(1) accepts civil office or employment under the Government of the United States (other than the performance of judicial duties pursuant to subsection (b) of this section);

(2) engages in the practice of law; or

(3) materially violated the code of judicial conduct for the United States judges,
shall cease to be a senior judge and to be eligible for recall pursuant to subsection (b) of this section.

Law
enforcement.
48 USC 1493.

SEC. 1003. The prosecution in a territory or Commonwealth is authorized—unless precluded by local law—to seek review or other suitable relief in the appropriate local or Federal appellate court, or, where applicable, in the Supreme Court of the United States from—

(a) a decision, judgment, or order of a trial court dismissing an indictment or information as to any one or more counts, except that no review shall lie where the constitutional prohibition against double jeopardy would further prosecution;

(b) a decision or order of a trial court suppressing or excluding evidence or requiring the return of seized property in a criminal proceeding, not made after the defendant has been put in jeopardy and before the verdict or finding on an indictment or information, if the prosecution certifies to the trial court that the appeal is not taken for purpose of delay and that the evidence is a substantial proof of a fact material in the proceeding; and

(c) an adverse decision, judgment, or order of an appellate court.

Courts, U.S.
48 USC 1424b
note.
Ante, pp. 1740,
1743, 1744.

SEC. 1004. The provisions of sections 706(a), 802(a), and 901(a) of this Act extending the terms of district court judges of the Virgin Islands, Guam, and the Northern Mariana Islands, respectfully, from eight to ten years shall be applicable to the judges of those courts holding office on the effective date of this Act.

Effective date.
48 USC 1424
note.

SEC. 1005. Titles VII, VIII, IX, and X of this Act shall become effective on the ninetieth day following their enactment.

Approved October 5, 1984.

LEGISLATIVE HISTORY—H.R. 5561:

HOUSE REPORT No. 98-784 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 130 (1984):

June 28, considered and passed House.

Aug. 10, considered and passed Senate, amended.

Sept. 14, House concurred in Senate amendment with amendments.

Sept. 21, Senate concurred in House amendments.