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**A BILL FOR AN ACT**

To amend 1 CMC § 8390 to allow the Settlement Fund to adjust benefit payments to reflect the correct calculation forward and authorize waivers of overpayments of retirement benefits; and for other purposes.

**BE IT ENACTED BY THE TWENTY-FOURTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:**

1           **Section 1. Findings and Purpose.** The Legislature finds that the NMI Settlement  
2 Fund has served hundreds of retirees with notices of overpayments and retirement benefits  
3 adjustments after conducting a benefits audit. Some retirees have received the same  
4 benefits for ten years or more. Most, if not all, of the overpayment calculations were made  
5 by the former NMI Retirement Fund and through no fault of the retirees. Most retirees  
6 detrimentally rely on their monthly retirement benefits for their livelihood to pay for  
7 housing, food, debts, vehicles, medical expenses, and incidentals. Most retirees' income is  
8 their retirement pension, and any adjustments negatively affect their standard of living.

9           The Legislature further finds that Settlement Fund's determination to recover  
10 overpayments of benefits has adversely shaken the lives of retirees subject to the  
11 overpayments. Retirees are bombarded with letters and notices about overpayments from  
12 the Settlement Fund. Retirees can't afford to pay back the overpayments, ranging from  
13 several thousand dollars to hundreds of thousands. The retirees are terrified of being sued  
14 in court to recover the overpayments. The retirees cannot afford to pay back the  
15 overpayments, let alone afford to pay for lawyers to defend them against recovery of such  
16 overpayments that were miscalculated through no fault of the retirees.

17           The Legislature finds that it is unfair, unreasonable, and unconscionable for the  
18 retirees, who are not at fault, to be required to pay back the overpayments. The Settlement  
19 Fund should waive the recovery of overpayments based on fairness, equity, and good

1 conscience. The laws of the United States government, as well as most states and territories,  
2 provide for waivers of overpayments of various benefits, including social security benefits,  
3 state retirement benefits, unemployment benefits, veteran's benefits, family and medical  
4 leave benefits. The general standard for a waiver of recovery of overpayment of benefits is  
5 that the individual is not at fault and recovery or repayment is against equity and good  
6 conscience. Recovery of overpayment of benefits is against equity and good conscience  
7 when: the overpayment would cause financial hardship to the person for whom it is sought;  
8 or the recipient of the overpayment can show (regardless of their financial circumstances)  
9 that due to the notice that such payment would be made or because of the incorrect payment  
10 either they have relinquished a valuable right or changed positions for the worse; or  
11 recovery would be unconscionable, unreasonable, or unfair under the circumstances.

12 Accordingly, the purpose of this Act is for the Settlement Fund to adjust retirement  
13 benefit payments to reflect the correct calculation and authorize waivers of recovery of  
14 overpayments of retirement benefits.

15 **Section 2. Amendment.** 1 CMC § 8390 is hereby amended to read as follows:

16 **“§ 8390. Overpayment or Underpayment of Benefits.**

17 (a) Whenever the administrator finds that more or less than the correct amount of  
18 benefits have been paid with respect to any individual, proper adjustment ~~or recovery~~ shall  
19 be made by appropriate adjustments to future payments to the member or any survivors, or  
20 from the estate of any recipient of benefits.

21 (b) Unless fraud, misrepresentations, pension miscalculation by the Settlement  
22 Fund or its predecessor, or concealment of material information was involved in connection  
23 with an overpayment, ~~an amount of no more than 50 percent of any benefit to be paid in~~  
24 ~~any benefit period may be withheld and offset against previous overpayments~~ there shall  
25 be no recovery of overpayments by the NMI Settlement Fund from, any member, any  
26 survivors, or from the estate of any recipient of benefits who is without fault and if such  
27 recovery would be against equity and good conscience.

1           ~~In his discretion, the administrator may authorize a lesser percent of annuity to be~~  
2 ~~withheld, taking into consideration the financial condition of the annuitant, provided that~~  
3 ~~such overpayment can be recovered within two years.~~

4           (c) In the case of fraud, misrepresentation or concealment of material information  
5 by a member or annuitant, all annuities and other benefits shall be withheld completely  
6 until the amount of overpayment is offset in full. This subsection shall not affect any other  
7 civil or criminal liability provided by law for such fraud, misrepresentation or concealment.

8           (d) In the event of underpayment by the fund to an annuitant, the amount of such  
9 underpayments plus regular interest shall be paid to the annuitant or beneficiary as soon as  
10 discovered.

11           (e) Notice of the overpayment or underpayment under this subsection shall include  
12 a statement that the affected member or beneficiary may appeal the overpayment or  
13 underpayment by notifying the Administrator, in writing, after receipt of notice of the  
14 overpayment or underpayment. A member or beneficiary who receives a notice of  
15 overpayment under this subsection may appeal to the Settlement Fund for a waiver of the  
16 overpayment following Sections 8390(b) and (f).

17           (f) Upon appeal to the NMI Settlement Fund by an affected member or beneficiary  
18 under this section, the Settlement Fund may waive an overpayment if, in the opinion of the  
19 Settlement Fund, the individual is without fault and recovery of an overpayment is against  
20 equity and good conscience. When assessing if recovery is against equity and good  
21 conscience, the Settlement Fund shall consider whether (1) the recovery of the  
22 overpayment would cause financial hardship to the person for whom it is sought; or (2) the  
23 recipient of the overpayment can show (regardless of their financial circumstances) that  
24 due to the notice that such payment would be made or because of the incorrect payment  
25 either they have relinquished a valuable right or changed positions for the worse; or (3)  
26 recovery would be unconscionable, unreasonable, or unfair under the circumstances. The  
27 Settlement Fund may conduct a hearing on an appeal under this Section.”

28           **Section 3. Retroactive Application.** The provisions of this Act shall apply  
29 retroactive to the effective date of Public Law 6-17 and apply to all notices of overpayments

1 served by the NMI Retirement Fund and Settlement Fund to the retirees, their survivors or  
2 estates before the effective date of this Act.

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

7 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not  
8 be construed as affecting any existing right acquired under contract or acquired under  
9 statutes repealed or under any rule, regulation, or order adopted under the statutes.  
10 Repealers contained in this Act shall not affect any proceeding instituted under or pursuant  
11 to prior law. The enactment of the Act shall not have the effect of terminating, or in any  
12 way modifying, any liability, civil or criminal, which shall already be in existence on the  
13 date this Act becomes effective.

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

Date: 3/5/25

Introduced By:   
Senator Dennis Mendiola

Reviewed for Legal Sufficiency by:

  
Senate Legal Counsel