

TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

THIRD REGULAR SESSION, 2001

Public Law 12-80

H. B. NO. 12-380, HD1, HS1, SS1

AN ACT

To amend the Investment and Incentive Act of 2000, 4 CMC Section 3301, et. seq., and for other purposes.

BE IT ENACTED BY THE TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

Section 1. Findings. In Public Law 12-32, the Legislature found that certain incentives were desirable and necessary to promote the continued economic development of the Commonwealth. That law, as later amended by Public Law 12-50, was intended to encourage the development of new businesses and to encourage the expansion and renovation of existing businesses by offering developers tax incentives to build, expand and operate projects. Providing investment incentives was declared to be a public purpose.

The Legislature now finds that an important category of businesses was overlooked in the Investment and Incentive Act of 2000. During the increasingly difficult period of economic decline preceding the passage of PL 12-32, some businesses continued to invest their scarce resources in the Commonwealth. The Legislature finds that those businesses that made investments in the CNMI at great risk to their own existence for the benefit of the Commonwealth should be entitled to apply for benefits of the Act.

Section 2. Amendments. The following sections are hereby amended as follows:

(a) Subsection 3301 (e) (1) (i) is hereby amended as follows:

“(e) Capital Investment” shall mean:

(1) the actual money invested in the project, excluding interest on any loan,
for:

(i) the acquisition of any estate in land, including improvements thereon, if any, within the Commonwealth;

(ii) cost of construction;

(iii) start-up costs to include the following

(A) furniture and fixtures;

(B) Salaries and miscellaneous personnel costs;

(C) machinery;

(D) equipment;

(E) inventory;

(F) supplies, and other expenses incurred in the development of the activity under a Qualifying Certificate;

(2) any funds paid to or in-kind contribution transferred to and accepted by the government as a public benefit contribution.

(b) Subsection 3304 is hereby amended as follows:

“§ 3304. Tax Abatements and Tax Rebates. Subject to the provisions of this Chapter, the Governor is authorized to issue a Qualifying Certificate prospectively, from the date of issuance, abating the following taxes or establishing a higher tax rebate level on the following terms:”

(a) Abatement of taxes of whatever nature, except taxes under the NMTIT, paid or to be paid to the Government of the Commonwealth of the Northern Mariana Islands of up to 100 percent for a period of up to 25 years.

(b) Rebate of taxes of whatever nature paid to the Government of the Commonwealth of the Northern Mariana Islands of up to 100 percent for a period of up to 25 years.”

(c) 4 CMC Section 3303 (f) is hereby amended to read as follows:

“(f) New Expansion, Resort Hotel
or Condominium \$5,000,000 \$1,000,000”

(d) Subsection 3306 (6) is amended as follows:

“(6) Description of the land on which Applicant’s project is to be located or is located, Applicant’s title thereto, and any recorded maps thereof; and”

(e) Subsection 3307 (n) is amended as follows:

“(n) Any development or project beneficial to the economic development of the Commonwealth not listed above; \$2,500

Provided that for the islands of Rota and Tinian, the applicable non-refundable filing fees shall be sixty percent (60%) of the corresponding figures listed above. If an applicant’s development or proposed development combines or combined two or more of the activities listed above, and the development is in one contiguous location, the Applicant shall pay only one filing fee, for whichever activity has the highest fee.”

(f) Section 3310 is hereby amended to read as follows:

“§ 3310. Findings on Applicants. In making its recommendation to the Governor, the Board in consultation with the Director of Revenue and Taxation or his or her designee shall consider and make specific findings on the following:

(a) The impact of the applicant’s activities or proposed activities upon the tourism market in the Commonwealth;

(b) The financial risks faced by or facing the applicant in undertaking the proposed activities and the likelihood of success of the project;

(c) The location of the activities or proposed activities;

(d) The creation of new employment;

(e) The replacement of imports; and

(f) The reduction of consumer prices.

(g) The fiscal impact of the proposed tax incentive on Commonwealth revenues.”

(g) Section 3311 is hereby amended as follows:

“§ 3311. Conditions of Benefits. In its recommendation of specific tax benefits, the Commonwealth Development Authority in consultation with the Division of Revenue and Taxation shall consider the following as possible terms and conditions to such benefits.

(a) Cap on amount. Capping the tax benefits to a fixed dollar amount;

(b) Public Benefits and Contributions. (i) Conditioning the tax benefits on the Beneficiary’s investment or investing in or creation of or creating public improvements separate from its activities or proposed activities, (ii) establishment of or establishing in-house training programs, or (iii) contribution to or plans to make a contribution to an independent training program or scholarship fund; and”

(h) 4 CMC Sections 3301, et. seq., is hereby amended to add a new section 3324 to read as follows:

“Section 3324. Application. Any business which is either a trust, a partnership, a sole proprietorship, a corporation, a limited liability corporation or a limited liability partnership may apply for a Qualifying Certificate if, within the three calendar year period preceding the effective date of Public Law 12-32 or thereafter, it meets or would have met the requirements of this Act. Any applicant which seeks a Qualifying Certificate for a business which primarily serves the tourism industry and which opened for business within the three year calendar year period referred to above shall only be eligible for such a Certificate if the applicant has made during that three year period the capital investment required by Section 3303 or a capital investment in the sum of two million dollars, which ever shall be greater.

In addition to the forgoing, existing business which primarily serve the tourism industry in the senatorial districts of Rota and Tinian which have made capital investments as required by Section 3303 or a capital investment of two million dollars, whichever shall be greater shall be eligible to apply for Qualifying Certificate the acceptance of which shall be at the sole discretion CDA.”

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

Section 4. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this Act becomes effective.

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

CERTIFIED BY:

ATTESTED TO BY:

/S/ _____
BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

/S/ _____
EVELYN C. FLEMING
HOUSE CLERK

Approved this 31st day of December, 2001

/S/ _____
PEDRO P. TENORIO
GOVERNOR
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS