

**TWELFTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE**

**FIRST SPECIAL SESSION, 2001**

*Public Law 12-50*  
**SENATE BILL**  
**NO. 12-111**

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**AN ACT**

To amend the Investment and Incentive Act of 2000 (Public Law 12-32) and for other purposes.

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

Section 1. Findings. The Legislature finds that certain amendments to the Investment Incentive Act of 2000 (Public Law 12-32) are necessary to clarify and effectively carry out its intent to offer developers tax incentives to build, expand and operate commercial projects.

Section 2. Amendments. Certain provisions of the Investment Incentive Act which has been codified under Chapter 3, Division 2 of Title 4 are hereby amended as follows:

(a) Section 3301 is amended as follows:

“§3301. **Definitions**. Where they appear in this Act the following terms have the following meanings:

(a) “Qualifying Certificate”. A “Qualifying Certificate” is a contract valid for a given period of time, executed by the Governor upon recommendation of the Commonwealth Development Authority Board, between the Government of the Northern Mariana Islands and the Beneficiary, which has qualified for certain tax rebates or tax abatements or for both in return for development, expansion or renovation of a desirable business activity as described in this Chapter.

(b) “Beneficiary”. The recipient of a Qualifying Certificate shall be known as a “Beneficiary”.

(c) “Board” shall mean the Board of Directors of the Commonwealth Development Authority, unless the context indicates otherwise.

(d) “Certificate of Compliance”. A certificate issued by the commonwealth Development Authority that a Beneficiary has complied with the terms and conditions of the Qualifying Certificate for the previous year.

(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 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.

(f) “Expansion” shall mean the extent or amount by which a building, project or activity is increased in dimension, size, volume, capacity or an increase in the number of locations or branches from which the Beneficiary conducts business. In no event, however, shall an event or a collection of events or action that was intended to qualify as an expansion be deemed an expansion if it does not result in a corresponding increase in commercial revenues, products or services, and employment that can be attributed to the purported expansion. The renovation of an existing building, project or activity does not qualify as an expansion except as provided in subsection (g) of this section.

(g) “Renovation” shall mean the modernization, reconstruction, remodeling, upgrading or substantial improvement of an existing building, project or activity which substantially increases the commercial potential of the building, project or activity.”

(b) Section 3302 is amended as follows:

“§3302. **Eligibility.** Any business which is either a trust, a partnership, a sole proprietorship, a corporation, a limited liability corporation or a limited liability partnership is eligible to apply for a Qualifying Certificate in one or more of the following areas:

- a. Franchise restaurants;
- b. Water parks;
- c. Aquariums;
- d. Cultural centers;
- e. Theme parks;
- f. Resort Hotels and condominiums;
- g. Golf courses;
- h. Convention centers

- i. Dinner theaters;
- j. Special Events such as conventions and sporting events;
- k. CNMI based airlines and other aviation related activities;
- l. Manufacturing or Processing of High Technology Products;
- m. Internet related businesses and/or businesses engaged in internet commerce; or

n. Any development or project beneficial to the economic development of the Commonwealth not listed above.”

(c) Section 3303(n) is amended to read as follows:

“n. Any development or project not listed above that is approved

pursuant to this Chapter \$1,000,000 500,000

(d) Section 3304 is repealed and re-enacted as follows:

“§3304. **Tax Abatements and Tax Rebates.** Subject to the provisions of this Chapter, the Governor is authorized to issue a Qualifying Certificate to a Beneficiary which authorizes the abatement or rebate of taxes as follows:

(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.”

(e) Section 3307 is amended as follows:

“§3307. **Fees.**

(a) Application Fee. All application fees are non-refundable. Non-refundable application fees are as follows:

<i>Activity</i>	<i>Filing fee:</i>
a. Franchise restaurant	\$5,000
b. Water park	\$5,000
c. Aquarium	\$5,000
d. Cultural center	\$5,000
e. Theme park	\$10,000
f. Resort hotel and condominium	\$10,000
g. Golf course	\$10,000
h. Convention center	\$5,000
i. Dinner theater	\$5,000
j. Special events	\$2,500
k. CNMI based airlines and other aviation related activity	\$5,000
l. Manufacturing processing of High Technology Products	\$10,000
m. Internet related businesses and/or businesses Engaged in internet commerce	\$2,500
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 proposed development combines 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.

(b) Compliance Fee. The Board is authorized to impose a non-refundable fee to cover the reasonable expenses of monitoring and ensuring

compliance of the Beneficiary as required under this Chapter and regulations thereunder.

(c) All fees collected pursuant to this section shall be payable to and deposited to the Commonwealth Development Authority to be expended by the Commonwealth Development Authority exclusively for the purposes set forth in this Chapter.”

(f) Section 3310 is amended as follows:

“§3310. **Findings on Applications.** 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 proposed activities upon the tourism market in the Commonwealth;
- (b) The financial risks facing the applicant in undertaking the proposed activities and the likelihood of success of the project;
- (c) The location of the proposed activities;
- (d) The creation of new employment;
- (e) The replacement of imports; and
- (f) The reduction of consumer prices.”
- (g) Section 3312 is amended as follows:

“§3312. **Grounds for Suspension or Revocation.** A Qualifying Certificate may be suspended or revoked by the Governor of the Commonwealth upon the recommendation of the Commonwealth Development Authority Board for any of the following reasons:

- (a) Fraud. Fraud or misrepresentation of any material allegation in the application for such Qualifying Certificate or any material allegation made in support of the issuance of a Certificate of Compliance;

(b) Bankruptcy. The filing by or against Beneficiary of a petition for bankruptcy;

(c) Dissolution. A finding by the Attorney General that a corporate Beneficiary has been dissolved, or that a corporate, partnership or trust Beneficiary has been dissolved.

(d) Non-compliance. A finding by the Board that the Beneficiary has failed to comply with any term of the Qualifying Certificate or any statute, rule or regulation related thereto.

(e) Transfer. The transfer, assignment or conveyance of the Qualifying Certificate, or any interest or benefit thereof, shall not be permitted without prior written consent of the Board which shall not be unreasonably withheld. For purposes of this Section, a transfer of interest or benefits shall have occurred, among other times, at any time that there is a transfer of a majority of the voting stock of the Beneficiary resulting in a change in the identity of the shareholders that control the Beneficiary. Any lease, assignment or transfer of a substantial part of the Beneficiary's activities shall also be deemed a transfer for purposes of this Section."

(h) Section 3323 is amended as follows:

**"§3323. Implementation by the Director of Revenue and Taxation and Commonwealth Development Authority Board.** The Director of Revenue and Taxation and Commonwealth Development Authority Board are hereby authorized to issue such rules and regulations as they may deem reasonably related and necessary to implement the provisions of this Chapter."

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

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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. Repeaters 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 on 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/ \_\_\_\_\_  
**PAUL A. MANGLONA**  
President of the Senate

/s/ \_\_\_\_\_  
**JOAQUIN G. ADRIANO**  
Senate Legislative Secretary

Approved this 1<sup>st</sup> day of May, 2001

/s/ \_\_\_\_\_  
**JESUS R. SABLAN**  
**Acting Governor**  
Commonwealth of the Northern Mariana Islands