



HOUSE OF REPRESENTATIVES

TWENTY-SECOND LEGISLATURE

COMMONWEALTH OF THE NORTHERN MARIANAS COMMONWEALTH

LEGISLATURE

P.O. BOX 500586 SAIPAN, MP 96950

DENITA K. YANGETMAI
CHAIRPERSON
COMMERCE AND TOURISM COMMITTEE

Aug 2nd - 8/3/2021 w/technical (CEDA)
STANDING COMMITTEE REPORT NO. 22-21

DATE: JULY 21, 2021

RE: HOUSE BILL No. 22-70

The Honorable Edmund S. Villagomez
Speaker of the House of Representatives
Twenty-Second Northern Marianas
Commonwealth Legislature
Capitol Hill
Saipan, MP 96950

Dear Mr. Speaker:

Your Committee on Commerce and Tourism to which House Bill No. 22-70 was referred, entitled:

“To reform the Investment Incentive Act of 2000 to promote economic development in the Commonwealth and increase competitiveness of the Commonwealth for private sector investment.”

begs leave to report as follows:

I. RECOMMENDATION:

After considerable discussion, your Committee recommends that H. B. NO. 22-70 be passed by the House in its current form.

HOUSE CLERK'S OFC
RECEIVED BY *DM*
DATE *7/22/2021* TIME *1:15 pm*

II. ANALYSIS:

A. Purpose:

The purpose of House Bill No. 22-70 is to reform the Investment Incentive Act of 2000 to promote economic development in the Commonwealth and increase competitiveness of the Commonwealth for private sector investment.

B. Committee Findings:

Your Committee finds that investment incentive is a government-implemented incentive policy aimed to encourage investors into its domestic market or to promote expansion of existing businesses. Investment incentives encompass creating an environment that enables businesses to operate profitably and decreases risks. It is also designed to attract investors to the CNMI by offering them a mutually beneficial arrangement.

Your Committee further finds that the Investment Incentive Act of 2000 served the purpose of its time in providing incentives for the development of new investment in the Commonwealth, however, the structure of the program has not kept pace with an evolving competitive market for business investments.

Under the Investment Incentive Act of 2021, the Commonwealth Development Authority Board of Directors shall produce a "Targeted Industry" listing, determining the industries eligible to apply for a Qualifying Certificate in line with the five-year economic development goals of the Commonwealth and the Authority shall revisit the Targeted Industry listing at least once per calendar year and, if necessary, publish amendments to the list. 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 one or more of the areas listed in the Targeted Industry list. In addition, the CDA Board of Directors shall establish "Economic Development Zones" throughout the Commonwealth and may allow for industries to be targeted for one or more of these zones. Upon publication of the Targeted Industry list, the CDA shall meet with the Governor, Secretary of the Department of Finance, the Director of the Division of Revenue and Taxation, and, if applicable the Secretary of the Department of Public Lands, to establish the terms and conditions for tax rebates or abatements for the listed targeted industries. These terms and conditions will serve as the boundaries for which the Commonwealth Development Authority may negotiate with applicants on the terms of benefits offered for a particular investment.

The Commonwealth Development Authority, in coordination with the Office of the Governor, applicable departments and agencies and the Governor's Council of Economic Advisers, shall be the lead entity in formulating and implementing the CNMI Strategic Investment Program to target specific developments that will provide benefits to the development of the CNMI's economy and advance the economic opportunities within the Commonwealth. The Strategic Investment Program shall identify necessary developments that do not exist in the CNMI and establish a plan for the development of such an investment in line with the economic development goals of the Commonwealth. The plans produced shall include feasible locations for the development, cost of development, economic potential of the development, resources available to finance the development, and provide for a pre-approval of the Board on available tax incentives available for such a development in line with the plan, among other necessary components. In the selection of sites for the development, the CDA shall prioritize the use of Public Lands in accordance with the CNMI Public Land Use Plan. Upon the development of a plan within this program, the CDA shall market this investment to qualified investors and establish a framework to solicit for proposals for investors to implement the plan. For developments located on Public Lands, the Department of Public Lands shall retain ownership of the property, and, in coordination with the CDA, issue a Request for Proposals for the lease of that land in accordance with the Department of Public Lands associated laws and regulations. Upon the selection of an investor, approved permits obtained by the CDA shall be transferred to the investor and will maintain responsibility for compliance with the development toward the plan for that development and associated Qualifying Certificate monitoring requirements contained in Act.

Therefore, the Committee concurs with the intent and purpose of this Act and recommends that the House pass House Bill No. 22-70 in its current form.

C. Public Comments/Public Hearing:

Comments were received from the following agencies/entities:

1) Office of the Public Auditor

Public Auditor Kina Peter stated: "At this time OPA has no comments on the H.B. 22-70."

2) Commonwealth Economic Development Authority

Executive Director Manuel A. Sablan stated: "CEDA played a collaborative role with the proponents of this legislation, mainly with key members of the Governor's Council of Economic Advisers, who helped crafted the legislation in its present form. CEDA supports this legislation and seeks the support of your Committee to vote favorably on this measure."

Comments have been attached as part of this committee report.

Comments were also solicited from the following agencies/entities but no comments were received to date:

- 1) CNMI Scholarship
- 2) BECQ
- 3). CNMI State Library
- 4). CNMI Judiciary
- 5). Public Defender Office
- 6). OPM
- 7). Priority Care Service
- 8). Attorney's Robert J. O'Conner, Janet King, Mike White, Mark Scoggins

D. Legislative History:

House Bill No. 22-70 was formally introduced to the full body of the House on May 28, 2021 by Rep. Angel A. Demapan and was subsequently referred to the House Standing Committee on Commerce and Tourism for disposition.

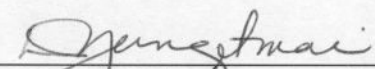
E. Cost Benefit:

The enactment of House Bill No. 22-70 will result in minimal costs to the CNMI Government with respect to the implementation of the Investment Incentive Act of 2021. However, the proposed legislation aims to impose certain fees that will remain with CDA to exclusively cover the reasonable expenses of implementing, monitoring and ensuring compliance with the requirements specified in the Act.

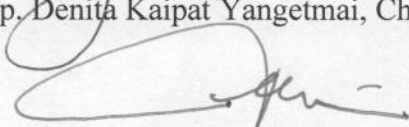
III. CONCLUSION:

The Committee is in accord with the intent and purpose of H. B. NO. 22-70, and recommends its passage in its current form.

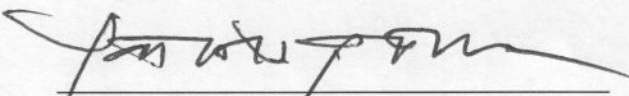
Respectfully submitted,



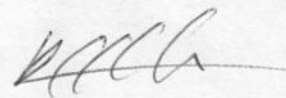
Rep. Denita Kaipat Yangetmai, Chairperson



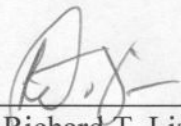
Rep. Celina R. Babauta, Member



Rep. Patrick H, San Nicolas, Vice Chair



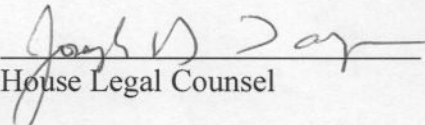
Rep. Vicente C. Camacho, Member



Rep. Richard T. Lizama, Member

Rep. Ralph N. Yumul, Member

Reviewed by:



House Legal Counsel

Attachment: Kina Peter, Public Auditor, OPA dated June 16, 2021
Manuel Sablan, Executive Director, CEDA dated June 22, 2021



Office of the Public Auditor

Commonwealth of the Northern Mariana Islands

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June 16, 2021

ELECTRONIC MAIL

The Honorable Denita Kaipat Yangetmai
22nd Northern Marianas Commonwealth Legislature
Honorable Jesus P. Mafnas Memorial Building
P.O. Box 500129
Saipan, MP 96950

RE: Comments on H.B. 22-70

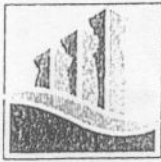
Dear Chairwoman Yangetmai:

The Office of the Public Auditor (OPA) appreciates the opportunity to comment on House Bill 22-70 (H.B. 22-70). At this time OPA has no comments on the H.B. 22-70. Thank you for your consideration.

Sincerely,

Kina Peter, CPA
Public Auditor

cc: Ashley Kost, OPA Legal Counsel



June 22, 2021

The Honorable Denita Yangetmai
Chairwoman, Standing Committee on Commerce
& Tourism
House of Representatives
Twenty-Second Northern Marianas Commonwealth
Legislature
Capitol Hill
Saipan, MP 96950

Dear Chairwoman Yangetmai:

I am writing to reflect the views or comments from the Commonwealth Economic Development Authority (CEDA) regarding the proposed legislations that have been referred to your Committee on Commerce and Tourism for review and disposition.

- **House Bill 22-056, (Eco-Friendly Act of 2021)**

Comment: CEDA supports the intent of this legislation and recommends that it be voted favorably by your Committee. The legislative finding section of the Bill provides the rationale for supporting this legislation.

- **House Bill 22-058 (Lower Interest Rates on Money Judgments)**

Comment: CEDA supports the intent of this legislation to lower the judicial interest rate on Money Judgments from 9% to 3%. The public purpose for lowering the interest rate is articulated in the legislative findings section of the Bill.

- **House Bill 22-070 (Investment Incentive Act of 2021)**

Comment: CEDA played a collaborative role with the proponents of this legislation, mainly with key members of the Governor's Council of Economic Advisors, who helped crafted the legislation in its present form. CEDA supports this legislation and seeks the support of your Committee to vote favorably on this measure.

- **Senate Bill 22-024 (Pacific Islands Development Bank)**

Comment: CEDA is in support of this legislation, with a recommendation that the proposed Section 9803 be amended to reflect that the Executive Director of CEDA

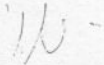
Comments on H.B. 22 – 56, 22-058, 22-070 & S.B. 22-024
June 22, 2021
Page 2

serves as a member of the Board of Directors of PIDB and the Loan Manager of CEDA serves as alternate member. CEDA believes that the CNMI members of the Board of Governors of PIDB will be better served by linking their governance responsibility over the affairs of PIDB and CEDA's professional expertise on matters dealing with development loan financing and technical expertise.

If you have any questions on the above comments, please let me know.

Thank you for the opportunity to comment on the above-referenced legislations.

Respectfully,



Manuel A. Sablan
Executive Director

xc: Members, House Standing Committee on Commerce & Tourism
CEDA Board of Directors

Twenty-Second Northern Marianas Commonwealth Legislature

IN THE HOUSE OF REPRESENTATIVES

Session, 2021

H. B. 22-70

A BILL FOR AN ACT

To reform the Investment Incentive Act of 2000 to promote economic development in the Commonwealth and increase competitiveness of the Commonwealth for private sector investment.

BE IT ENACTED BY THE 22nd NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 **Section 1. Short Title.** This Act may be cited as the Investment Incentive
2 Act of 2021.

3 **Section 2. Finding and Purpose.** The Legislature finds that the provision
4 of tax incentives is a common tool for economic development throughout the
5 United States and the world and that competition for investments is greatly
6 supplemented by efforts of these jurisdictions to implement economic development
7 plans through the allocation of tax incentives.

8 The Legislature further finds that the Investment Incentive Act of 2000
9 served the purpose of its time in providing incentives for the development of new
10 investment in the Commonwealth, however, the structure of the program has not
11 kept pace with an evolving competitive market for business investments.

12 The Legislature encourages the development of additional business
13 investments and increased economic diversification of the Commonwealth
14 economy by offering investors tax incentives to build, expand, and operate projects.
15 Providing investment incentives is declared to be a public purpose.

16 **Section 3. Amendment.** Title 4, Division 5, Chapter 13, § 50202(a) is
17 repealed and a new subsection (a) shall read as follows:

1 “(a) The Commonwealth Development Authority Board of Directors shall
2 produce a “Targeted Industry” listing, determining the industries eligible to apply
3 for a Qualifying Certificate in line with the five-year economic development goals
4 of the Commonwealth. The Authority shall revisit the Targeted Industry listing at
5 least once per calendar year and, if necessary, publish amendments to the list. Any
6 business which is either a trust, a partnership, a sole proprietorship, a corporation,
7 a limited liability corporation or a limited liability partnership is eligible to apply
8 for one or more of the areas listed in the Targeted Industry list.”

9 **Section 4. Amendment.** Title 4, Division 5, Chapter 13, § 50202 is
10 amended to add new subsections (b) through (d) to read as follows and to
11 appropriately re-number all subsequent existing subsections:

12 “(b) The Commonwealth Development Authority in including industries for
13 eligibility within the Targeted Industry listing, shall categorize industries using the
14 North American Industry Classification System (“NAICS”) codes associated with
15 the industry.

16 “(c) The Commonwealth Development Authority Board of Directors shall
17 establish “Economic Development Zones” throughout the Commonwealth and may
18 allow for industries to be targeted for one or more of these zones. For the purposes
19 of defining Economic Development Zones, the municipalities of Tinian and Rota
20 will be separately categorized as their own respective zones.

21 “(d) Upon publication of the Targeted Industry list, the Commonwealth
22 Development Authority shall meet with the Governor, Secretary of the Department
23 of Finance, the Director of the Division of Revenue and Taxation, and, if applicable
24 the Secretary of the Department of Public Lands, to establish the terms and
25 conditions for tax rebates or abatements for the listed targeted industries. These
26 terms and conditions will serve as the boundaries for which the Commonwealth
27 Development Authority may negotiate with applicants on the terms of benefits
28 offered for a particular investment.”

1 **Section 5. Amendment.** Title 4, Division 5, Chapter 13, § 50203 is
2 repealed and re-enacted to read as follows:

3 “§ 50203. Minimum Capital Investment.

4 (a) A baseline minimum capital investment, including public benefit
5 contributions, in a new business or expansion of an existing business of a
6 Qualifying Certificate applicant shall be developed and published by the
7 Commonwealth Development Authority Board of Directors, for each industry
8 contained in the Targeted Industry list.

9 (b) At the determination of the Authority, specific Economic Development
10 Zones may require minimum capital investments below the baseline, should the
11 economic development goals of the Commonwealth provide justification for a
12 lower investment threshold.

13 Provided that for the Economic Development Zones within Rota and
14 Tinian, minimum capital investments, including public benefit contributions shall
15 be no greater than sixty percent of the baseline investment threshold published by
16 the Authority.”

17 (c) The Authority shall make reasonable efforts to ensure previous
18 minimum capital investment requirements present in the Investment Incentive Act
19 of 2000 be maintained should the industry remain on the Targeted Industry list.”

20 **Section 6. Amendment.** Title 4, Division 5, Chapter 13, § 50206 is
21 amended to add a new subsection (8) to read as follows:

22 “(8) Due Diligence review submitted by an accepted third party, if
23 applicable.”

24 **Section 7. Amendment.** Title 4, Division 5, Chapter 13, § 50207 is repealed
25 and re-enacted to read as follows:

26 “§ 50207. Fees.

27 (a) Application fee. Application fees are non-refundable. Non-refundable
28 application fees shall be developed by the Commonwealth Development Authority

1 Board of Directors in line with the Targeted Industry list and the economic
2 development goals of the Commonwealth.

3 Provided that for the Economic Development Zones within Rota and
4 Tinian, the applicable non-refundable filing fees shall be no greater than sixty
5 percent of the corresponding figures published by the Authority.

6 (b) Due Diligence fee. The Board is authorized to impose a non-refundable
7 fee to cover the reasonable expense of conducting a due diligence review
8 of applicants for a Qualifying Certificate. The Board may accept a due
9 diligence review of an accepted independent third party paid for by the
10 applicant in lieu of a Due Diligence fee.

11 (c) Compliance fee. The Board is authorized to impose a non-refundable
12 fee to cover the reasonable expense of monitoring and ensuring compliance
13 of the Beneficiary as required under this Chapter and regulations
14 thereunder.

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

19 **Section 8. Amendment.** Title 4, Division 5, Chapter 13, § 50208 is
20 amended to read as follows:

21 “The application shall be reviewed and analyzed in detail by the
22 Commonwealth Development Authority and such outside consultants as may be
23 necessary. When necessary, the Commonwealth Development Authority will meet
24 with the applicant to discuss the terms of benefits provided by the Commonwealth
25 in accordance with 4 CMC § 50202 (d) or to clarify or amplify representations made
26 in the application. Upon completion of the review, the Commonwealth
27 Development Authority Board may either recommend the issuance of a Qualifying
28 Certificate to the Governor or disapprove the application. If within ninety days of

1 receipt of all items required by Section 50206, the Commonwealth Development
2 Authority Board fails to either disapprove the application or recommend that the
3 application be granted, then the application shall be forwarded directly to the
4 Governor for his consideration.”

5 **Section 9. Amendment.** Title 4, Division 5, Chapter 13, is amended to add
6 a new section 50225 to read as follows:

7 “§ 50225. CNMI Strategic Investment Program.

8 (a) In coordination with the Office of the Governor, applicable departments
9 and agencies and the Governor’s Council of Economic Advisers, the
10 Commonwealth Development Authority shall be the lead entity in
11 formulating and implementing the CNMI Strategic Investment Program
12 to target specific developments that will provide benefits to the
13 development of the CNMI’s economy and advance the economic
14 opportunities within the Commonwealth.

15 (b) The Strategic Investment Program shall identify necessary
16 developments that do not exist in the CNMI and establish a plan for the
17 development of such an investment in line with the economic
18 development goals of the Commonwealth.

19 (c) The plans produced shall include feasible locations for the development,
20 cost of development, economic potential of the development, resources
21 available to finance the development, and provide for a pre-approval of
22 the Board on available tax incentives available through this Chapter for
23 such a development in line with the plan, among other necessary
24 components. In the selection of sites for the development, the
25 Commonwealth Development Authority shall prioritize the use of
26 Public Lands in accordance with the CNMI Public Land Use Plan.

- 1 (d) The Commonwealth Development Authority shall be tasked with
2 obtaining permitting authorizations and associated land to develop the
3 necessary pre-development approvals for the development.
- 4 (e) Upon the development of a plan within this program, the
5 Commonwealth Development Authority shall market this investment to
6 qualified investors and establish a framework to solicit for proposals for
7 investors to implement the plan.
- 8 (f) For developments located on Public Lands, the Department of Public
9 Lands shall retain ownership of the property, and, in coordination with
10 the Commonwealth Development Authority, issue a Request for
11 Proposals for the lease of that land in accordance with the Department
12 of Public Lands associated laws and regulations.
- 13 (g) Upon the selection of an investor, approved permits obtained by the
14 Commonwealth Development Authority shall be transferred to the
15 investor and will maintain responsibility for compliance with the
16 development toward the plan for that development and associated
17 Qualifying Certificate monitoring requirements contained in this
18 Chapter.”

19 **Section 10. Severability.** If any provision of this Act or the application of
20 any such provision to any person or circumstance should be held invalid by a court
21 of competent jurisdiction, the remainder of this Act or the application of its
22 provisions to persons or circumstances other than those to which it is held invalid
23 shall not be affected thereby.

24 **Section 11. Savings Clause.** This Act and any repealer contained herein
25 shall not be construed as affecting any existing right acquired under contract or
26 acquired under statutes repealed or under any rule, regulation or order adopted
27 under the statutes. Repealers contained in this Act shall not affect any proceeding
28 instituted under or pursuant to prior law. The enactment of this Act shall not have

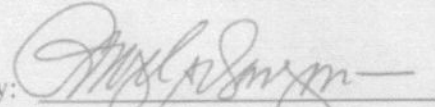
1 the effect of terminating, or in any way modifying, any liability civil or criminal,
2 which shall already be in existence at the date this Act becomes effective.

3 **Section 12. Effective Date.** This Act shall take effect upon its approval by
4 the Governor or upon its becoming law without such approval.

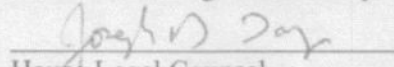
Prefiled: 5/24/2021

Date: 05/04/2021

Introduced By:


Rep. Angel A. Demapan

Reviewed for legal sufficiency by:


House Legal Counsel