

**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 22<sup>nd</sup> 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17 repealed and a new subsection (a) shall read as follows: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.

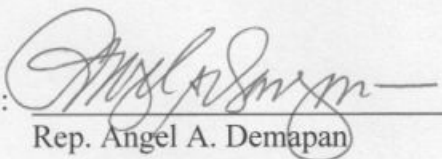
24 **Section 11. Savings Clause.** This Act and any repealer contained herein  
25 shall not be construed as affecting any existing right acquired under contract or  
26 acquired under statutes repealed or under any rule, regulation or order adopted  
27 under the statutes. Repealers contained in this 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.

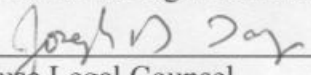
3 **Section 12. Effective Date.** This Act shall take effect upon its approval by  
4 the Governor or upon its becoming law without such approval.

Prefiled: 5/24/2021

Date: 05/04/2021

Introduced By:   
Rep. Angel A. Demapan

Reviewed for legal sufficiency by:

  
House Legal Counsel