

**TITLE 1:
GENERAL PROVISIONS**

§ 121. Definition.

The term “public purpose” shall include, but not be limited to, any purpose which meets one or more of the following criteria:

- (a) The benefits are equally available to the entire community;
- (b) The service or commodity supplied is one needed by a large number of the community pursuant to customs and traditions as applicable;
- (c) The enterprise bears directly and immediately upon the public welfare;
- (d) The needs to be met by its nature requires a united effort under unified control and cannot be served well by separate individuals;
- (e) Where benefits accrue to individuals, the community has an interest in having those individuals benefitted (for example, sports teams, school and school-related activities, recognition of individuals and organizations, funerals, or other recognized cultural or community events);
- (f) The activity or service is in line with the historical development of the Commonwealth and with the general purpose of its constitution and laws;
- (g) A special emergency exists, such as may be brought about by war or public calamity, (for example, typhoons);
- (h) The expenditure is reasonably related to the operation of government or its objective in the promotion of the public health, safety, morals, general welfare, security, prosperity, and the contentment of a community of people or residents within the locality, (for example, fiestas and other community celebrations, expenses related to or hosting off-island visitors attending governmental events, meetings, conferences, or state funeral expenses).
- (i) Notwithstanding any other provision of this act or other law to the contrary, expenditures authorized and regulated by legislative rules are expressly declared to be for a public purpose, unless proved by clear and convincing evidence that the expenditure in fact was for a personal or political activity.

To determine whether a specific appropriation or expenditure is for a public purpose the foremost test shall be whether it confers a direct benefit to a culturally or traditionally significant part of the community as opposed to an incidental or secondary benefit and whether the community has an interest in having the individual or individuals benefitted. Tradition and custom as well as the particular facts and circumstances of each case shall be taken into consideration when determining whether a public purpose is being served by a specific appropriation or expenditure. Each and every governmental, agency, departmental, commission, board, authority and public corporation official or employee with expenditure authority shall be governed by this test.

Source: PL 11-84, § 3, modified; new subsection (i) added by PL 12-2, § 2(b).

Commission Comment: PL 11-84, the “Public Purpose Definition Act of 1998,” which created this article took effect on July 21, 1999. The subsections of this section which were designated with numbers have been redesignated

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with lower case alphabets to comply with standard code formatting pursuant to the authority provided by 1 CMC § 3806.

PL 11-84 contained findings and purpose, title, severability, and savings clauses as follows:

Section 1. Findings and purpose. The Legislature finds that Section 1 of Article X of the Commonwealth of the Northern Mariana Islands Constitution, as amended by Constitutional Amendment 28, mandates the Legislature to “provide the definition of ‘public purpose.’” However, to define “public purpose”, the Legislature deems it prudent and rightful that the definition of “public purpose” be construed taking into consideration prevailing traditional and cultural notions of public purpose. Therefore, the purpose of this Act is to satisfy the intent of Amendment 28 by providing a definition of “public purpose” applicable wherever that term appears in the constitution, laws, statutes, code, rules and regulations of the Commonwealth unless otherwise provided by law.

Section 2. Title. This Act shall be commonly known as the “Public Purpose Definition Act of 1998.”

...

Section 4. 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 5. 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.

PL 12-2 that added a new subsection (i) to this section took effect on March 31, 2000. PL 11-84 contained findings and purpose, amendment, severability, and savings clauses as follows:

Section 1. Findings and purpose. The legislature finds despite its best efforts to fulfill its Constitutionally mandated duty to define “Public Purpose” there is still some confusion at the Department of Finance. As there has been no written guidance provided by the Department of Finance, the members have had to rely on past practice and procedure. This has resulted in many expenditures made by members of the 11th Legislature having payment denied by the Department of Finance. As such, we find a necessary to ratify those pending expenditures which would have been paid under past practice, and are not for personal or political gain.

Section 2. Amendment: Public Law 11-84 is hereby amended as follows:

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(a) Sections 4 through 7 are hereby renumbered as sections 5 through 8, and a new Section 4 is hereby added as follows:

“Section 4: Ratification. The Legislature does hereby ratify and deem to have expended for a public purpose and the Department of Finance shall pay as requested all expenses incurred by members of the 11th Legislature which were incurred and submitted to the Department of Finance. However, the Department of Finance may reasonably require such information necessary for the justification of such expenditures, provided that it shall have the burden to show that an expenditure was incurred for political or personal activities based on clear and convincing evidence before a request is denied.”

. . .

Section 3. Severability. If any provision of this Act or the application of any such provision to any person or circumstances 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 law.