

TITLE 1: GOVERNMENT
DIVISION 8: PUBLIC EMPLOYMENT

§ 8491. Public Debt Authorization.

(a) This chapter is a bond authorization act within the meaning of Commonwealth Code, Title 4, Division 10, Chapter 4, Article 2.

(b) The Commonwealth Development Authority (CDA), on behalf of the Commonwealth of the Northern Mariana Islands, is hereby authorized to issue, in one or more series, at one time or from time to time, bonds in an aggregate principal amount up to three hundred million dollars to fund the pension obligation of the Commonwealth referred to in [1 CMC § 8490\(b\)](#).

(c) This authorization is subject to the terms and conditions of Commonwealth Code, Title 4, Division 10, Chapter 4, Article 2 provided that Section 10452 shall not apply insofar as it limits the amount of bonds or their purpose in a manner inconsistent with the intent of Article X, Section 10 of the Constitution of the Commonwealth and provided further that the bonds shall be exempt from the portion of Section 10466 that provides for publication of notice and an action or proceeding to contest the validity of the bonds or other matters set forth therein, and the validity of the bonds and those other matters shall nonetheless be conclusively presumed after issuance of the bonds and no court shall have authority to inquire into such matters as provided in Section 10466.

(d) The Authority is further authorized to pledge as security for the bonds as provided for in Title 4, Division 10, Chapter 4, Article 2, the taxes on gross revenues of the Commonwealth collected pursuant to Title 4, Division 1, Chapter 3 of the Commonwealth Code, and on such priority and terms as the CDA shall determine to be in the best interest of the Commonwealth. The Authority may elect in its resolution authorizing issuance of a series of bonds that the pledged taxes on gross revenues shall be the sole security for the bonds, which in that case shall not be considered general obligation bonds or otherwise entitled to the full faith and credit pledge of the Commonwealth or any lien on the General Fund of the Commonwealth. If the Authority elects that pledged taxes on gross revenues shall be either additional security for the bonds or the sole security for the bonds, it may specify the priority of such pledge as against other pledges or uses of taxes on gross revenues, including that such pledge be senior and superior to any other pledge or use of taxes on gross revenues, notwithstanding any other law, including (without limitation) Public Law 20-33. All pledged taxes and revenues shall be deposited, and the Secretary of Finance shall make any transfers necessary to effect deposit of such taxes, promptly upon receipt, in a special trust account established pursuant to Section 10460, without prior deposit in the General Fund or any other Fund of the Commonwealth, which deposit shall be made monthly in an amount at least equal to one-sixth of the interest due or to become due on the bonds during the next succeeding six months and one-twelfth of the principal due or to become due on the bonds during the next succeeding twelve months. Alternatively, such deposit may be made as soon as possible from the first pledged taxes on gross revenue available until the balance in said special trust account is at least equal to debt service due or to become due on the bonds during the next succeeding twelve months. In either case, such

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deposit may be subject to adjustments provided for in the indenture pursuant to which the bonds are issued; for example, to account for other available moneys or to replenish draws on reserve funds. Any taxes on gross revenues deposited upon receipt in any other fund shall be deemed held in trust for, and the Secretary of Finance shall immediately transfer any such taxes for, deposit in the special trust account.

(e) The Commonwealth hereby covenants with the holders of the bonds, including any refunding bonds, that so long as any of the bonds or refunding bonds remain outstanding, the Commonwealth shall not alter or amend the tax on gross revenues or its deposit into the special trust account in any manner that would adversely affect the priority of any pledge of taxes on gross revenues or otherwise adversely affect the security of, or the ability to pay the principal of or interest on, the bonds. The CDA may include this covenant of the Commonwealth in the bond indenture or other document or agreement providing for issuance, security, and payment of the bonds.

Source: PL 18-12 § 3 (July 2, 2013), modified; subsections (b) and (d) repealed and reenacted and subsection (e) added by PL 18-45 §§ 3-5 (Apr. 11, 2014), modified; subsections (d) and (e) amended by PL 21-04, § 3(b) (Aug. 19, 2019).

Commission Comment: The word “Act” was substituted for “chapter” in subsection (a) pursuant to [1 CMC § 3806\(d\)](#). The Commission struck the figure “\$300,000,000” from subsection (b) pursuant to [1 CMC § 3806\(e\)](#). The Commission substituted section numbers pursuant to [1 CMC § 3806\(d\)](#). The Commission inserted a comma after the word “security” in subsection (e) pursuant to [1 CMC § 3806\(g\)](#).

In addition to savings and severability clauses, PL 21-04 included the following Short Title and Findings and Purpose sections:

Section 1. Short Title. This Act may be referred to as the “Bond Amendment Act of 2019”.

Section 2. Findings and Purpose. The Legislature finds that Public Law 18-12, as previously amended by Public Law 18-45, needs to be further amended to provide additional clarification and flexibility for the issuance of bonds authorized by Public Law 18-12 to meet changing market and legal conditions. The Legislature further finds that the Commonwealth Development Authority (“CDA”) Act, Division 10 of Title 4 of the Commonwealth Code, needs to be amended to provide greater flexibility for future refunding of bonds issued by the CDA.

The purpose of the Act is:

(a) To amend the CDA bond provisions to allow for special revenue bonds to be used to refund general obligation bonds. The amendment will require a specific bond act authorizing the particular refunding bonds (which would not otherwise be required) and pledge of gross revenue taxes or special revenues.

(b) To amend the Pension Obligation Bond Act to clarify that a pledge of the gross revenue tax to those bonds may be senior to all other uses, notwithstanding Public Law 20-33. The existing covenant of the

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Commonwealth to not make any gross revenue tax changes that impair the security of the Pension Obligation Bond language is amended to explicitly include impairing the priority of the pledge.

(c) To amend the CDA bond provisions to provide for monthly one-sixth of interest and one-twelfth of principal deposits (instead of first moneys until 12 months are fully funded).