

TITLE 4: ECONOMIC RESOURCES
DIVISION 10: COMMONWEALTH DEVELOPMENT AUTHORITY

§ 10203. Powers and Restrictions.

(a) Subject to any limitation set forth in this division, the authority shall have those powers reasonably necessary and incidental to the fulfillment of its purposes, including but not limited to the powers:

- (1) To design, adopt, alter, and use a corporate seal;
- (2) To prescribe, adopt, amend, and repeal regulations and bylaws consistent with this chapter governing the manner in which its business will be conducted and in which the obligations imposed on it by law will be performed;
- (3) To receive and hold funds from the United States government, the government of the Commonwealth, the Marianas Public Land Trust, the Economic Development Loan Fund and any other sources;
- (4) To sue and be sued in its own corporate name;
- (5) To acquire and hold any interest allowed by law in any real or personal property, tangible or intangible, in connection with the activities of the authority and to sell, mortgage, or otherwise dispose of such interest;
- (6) To borrow money from any private and public source, within the Commonwealth or the United States or in any other country; and to give security in connection with such borrowing;
- (7) To make and issue bonds, notes or other obligations in furtherance of the purposes of this division including, but not limited to, funding capital improvement projects of the Commonwealth for sewers, power, water, roads, health facilities, air and sea ports, and parks and recreation facilities;
- (8) To make loans to any autonomous public agency for use in any project that in the judgement of the authority will further the purposes of this division;
- (9) To guarantee the obligations of the Commonwealth or its autonomous public agencies, incurred to fund any project that in the judgement of the authority to be consistent with this division;
- (10) To make loans to a subsidiary public development corporation, for its use in any way deemed by the authority to be consistent with this division;
- (11) To underwrite, purchase, own, sell, mortgage, or otherwise dispose of stocks, bonds, debentures, securities, or other evidence of indebtedness in furtherance of the purpose of this division;
- (12) To invest prudently pursuant to 4 CMC § 10403(d) the reserves and other funds of the authority not currently needed for development activities or for liquidity;
- (13) To guarantee the obligations of private individuals, corporations or cooperatives;
- (14) To make loans to private individuals, corporations and cooperatives who are eligible for loans under the special provisions reserving funds for farmers, fishermen, agricultural and marine cooperatives under Covenant § 702(c), and allocate to the Marianas Islands Housing Authority those funds

TITLE 4: ECONOMIC RESOURCES
DIVISION 10: COMMONWEALTH DEVELOPMENT AUTHORITY

reserved for a special program of low interest housing loans for low income families;

(15) To make loans to private individuals, corporations and cooperatives other than pursuant to subsection (a)(14) of this section but only with the proceeds of the sale of tax exempt Industrial Revenue bonds, which bonds shall be secured by the project or investment financed or such other guarantees and collateral as may be required by the authority; provided, that such loans may be made from the current assets of the EDLF as of May 31, 1985, and future proceeds derived therefrom, until the authority determines that sufficient proceeds from the sale of tax exempt Industrial Revenue Bonds are available for such lending;

(16) To employ foreclosure proceedings authorized within Commonwealth law where required to protect outstanding loans and investments of the authority;

(17) To make contracts and execute all instruments necessary or convenient in the exercise of the powers of the authority;

(18) To pledge the full faith and credit of the Commonwealth;

(19) To hire such employees as are necessary to the operation of the authority as provided in 4 CMC § 10409, and to engage the services of outside experts, advisors, and other contractors as necessary to the fulfillment of the purposes of the authority;

(20) To undertake such research as is necessary or desirable to further the purposes of this division;

(21) To provide technical assistance, supervision, or management counseling, and other services in connection with the financing of any project or undertaking;

(22) To participate with any other provider of capital in the financing of any project or other undertaking which furthers the purpose of this division;

(23) To set rates of interest and fees, as provided in 4 CMC § 10404, and to collect money due to the authority from any sources;

(24) To assist investment in the Commonwealth by any potential business interest or other provider of capital;

(25) To engage as its agent any commercial bank or financial institution or autonomous public agency to administer any bank loan program involving loans to private persons, corporations or cooperatives eligible for loans from the funds reserved for farmers, fishermen, agricultural and marine cooperatives in Covenant § 702(c); provided, that the total amount of such loans shall not exceed the amount earmarked for specific purposes in Covenant § 702(c);

(26) To engage as its agent any major financial institution to implement all or a part of this division, major financial institution means a financial institution with assets in excess of \$50,000,000;

(27) To act as a financial advisor and coordinator with respect to any public borrowing by the Commonwealth, its departments, autonomous public

TITLE 4: ECONOMIC RESOURCES
DIVISION 10: COMMONWEALTH DEVELOPMENT AUTHORITY

agencies, municipalities and public corporations. Notwithstanding any other provision of law, no bonds or other debentures, may be issued or other public indebtedness incurred, by the Commonwealth or any of its departments, autonomous public agencies, municipalities or corporations including the Mariana Islands Housing Authority and the Commonwealth Ports Authority without the approval of Commonwealth Development Authority. The requirements by this chapter shall not apply to bonds or other debentures authorized prior to July 1, 1985;

(28) To fund bonds, notes or other obligations of the United States or any state or political subdivision thereof, or any U.S. possession or territory, or any of the districts of the Trust Territory of the Pacific Islands or their successor governments, or any public corporation of any of these;

(29) To organize, establish, operate, or own interest in, subsidiary corporations or joint ventures chartered under the laws of the Commonwealth and doing business within the Commonwealth;

(30) To establish the Development Corporation Division as a subsidiary corporation of the authority by appointing three members of the authority board as the board of directors of the development corporation and promulgating such related procedures and requirements as will effectuate such establishment in accordance with the purposes of this division;

(31) To make mortgage loans, issue mortgage insurance, enter into mortgage insurance agreements with the Department of Housing and Urban Development, or other agencies of the United States or Commonwealth governments, or any private entity to facilitate mortgage finance for residential purposes;

(32) To take such action as is necessary and proper to operate the authority, further its purposes, administer its loans, and oversee its other capital outlays;

(33) To make and issue bonds, notes or other obligations in furtherance of the purposes of this division, including, but not limited to, in accordance with 4 CMC § 10415; and

(34) To enter into interest rate exchange transactions and other similar financial accommodations with public or private individuals, corporations, agencies or cooperatives and to purchase letters of credit, insurance policies, surety bonds, or other similar financial guarantees or collateral from foreign or domestic banking corporations or associations, insurance companies, sureties or other private individuals, corporations, agencies or cooperatives and execute all instruments necessary or convenient in the exercise of such power.

(35)* CDA: Executive Directors, Officials, Board Members or Employees; Limitations on Interests. During his or her tenure and for one year thereafter, no executive director, official, board members or employee of CDA, or member of the Commonwealth legislature, or of the governing body for the locality in which a housing project is located, or other public official who exercises any responsibilities or functions with regard to a housing loan and/or housing project, shall have any interest, direct or indirect, in any such loan

TITLE 4: ECONOMIC RESOURCES
DIVISION 10: COMMONWEALTH DEVELOPMENT AUTHORITY

and/or project or in any property included or planned to be included in any such loan and/or project. The preceding sentence shall not apply if the interest was acquired involuntarily or prior to the beginning of the executive director's, official's, board member's or employee's tenure, and if: (i) The interest is immediately disclosed to CDA; (ii) Such disclosure is immediately entered in the minutes of CDA; and (iii) The person having the interest does not participate in any action by CDA relating to his or her interest. Any violation of the foregoing provisions of this section* constitutes misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of CDA issued in connection with any housing project developed, operated or assisted by CDA, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with such project or to act as trustees under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency.

(b) The authority shall not:

- (1) Be a depository for private savings;
- (2) Fund or loan funds for government operations, except for its own operations as provided in this division;
- (3) Make, issue, guarantee or otherwise participate in providing credit or lending money for consumer loans; and
- (4) Authorize, make or issue any bond or debenture or other obligation involving its own funds, in excess of \$5,000,000 for any particular making or issue, without first obtaining the approval of the members of each house of the legislature by joint resolution. Such approval shall not be subject to N.M.I. Const. art. X, § 3. This provision shall not apply to obligations to be paid directly by the United States or any of its agencies.

* So in original.

Source: PL 4-49, § 6; amended by PL 4-63, § 1; PL 5-27, § 2; PL 9-20, § 2; PL 20-87, § 5 (Feb. 5, 2019), modified.

Commission Comment: According to PL 9-20, § 1:

Section 1. Findings. The Legislature Finds that the present ceiling of \$3,000,000 (Three Million Dollars) which the Commonwealth Development Authority is authorized to loan-out from its own funds needs to be raised. The \$3,000,000 figure was established back in 1982 by the Fourth Legislature. Fourteen (14) years have elapsed since 1982, and many factors in our economic elements have dramatically changed. In light of these critical changes, the increasing of the \$3,000,000 ceiling is timely so as to boost and stimulate the present conditions of our local economy.

With respect to the references to the "Marianas Islands Housing Authority," see Executive Order 94-3 (effective August 23, 1994), reorganizing the executive branch, changing agency names and official titles, and effecting other changes, set forth in the Commission comment to 1 CMC § 2001.

TITLE 4: ECONOMIC RESOURCES
DIVISION 10: COMMONWEALTH DEVELOPMENT AUTHORITY

PL 11-14, § 4 is a provision dealing with subsection (a)(27) of this section. PL 11-14 took effect on June 10, 1998 and established a Public School System Building Fund in 1 CMC § 2281. See also comment to 1 CMC § 2281.

For reference section 4 states as follows:

Section 4. Exemption from CDA Approval. Notwithstanding any law to the contrary, 4 CMC § 10203(a)(27) shall not apply to any public indebtedness authorized by House Joint Resolution 10-36.

In codifying PL 20-87, the Commission renumbered the subsections “(a)-(c)” to (i)-(iii) in subsection (a)(35) pursuant to 1 CMC § 3806(a). The Commission did not rearrange subsection (a)(35) but left it as numbered by PL 20-87.