

TITLE 4: ECONOMIC RESOURCES
DIVISION 2: TOURISM

§ 2301. Exclusion from Gambling Prohibition.

Casino gaming and wagering is authorized in the Commonwealth provided that such gaming and wagering occurs in the casino facilities of the casino operator licensed pursuant to this chapter or in a casino licensed pursuant to the laws of a Senatorial District.

Source: PL 18-38 § 5(101) (Mar. 21, 2014), modified; repealed by PL 18-56 § 2 and reenacted by PL 18-56 § 7(2301) (July 11, 2014); amended by PL 19-24 § 2 (Dec. 4, 2015).

Commission Comment: PL 18-38 (Mar. 21, 2014) contained, in addition to savings and severability clauses, the following Findings and Purposes section:

Section 1. Findings and Purposes. The Legislature finds that a well-regulated casino industry will increase tourism to the Commonwealth, stimulate the economy, and provide needed government revenues. This Act is enacted pursuant to Article XXI of the Constitution, in order to authorize, establish and provide for casino gambling and wagering in the Commonwealth.

Presently, the Commonwealth has obligations to the Commonwealth's retirees. A great deal of money is owed to the Northern Mariana Islands Retirement Fund, and it is estimated that approximately seventy three million dollars will need to be paid to retirees and beneficiaries this year. Additionally, pursuant to the Final Amended Stipulation and Settlement Agreement in the NMI District Court Case 1:09-cv-00023, the Commonwealth needs \$25 million for Fiscal Year 2014, \$27 million for 2015, \$30 million for 2016, \$33 million for 2017, \$45 million for 2018, and a reduction of only \$1 million each year thereafter. The Fiscal Year Budget Act for 2014, however, only appropriated \$20 million for the NMI Retirement Fund, a shortfall of \$5 million.

The Commonwealth is in dire need of revenues to honor its obligations. Without such revenues, drastic reductions in force will be necessary along with the corresponding reduction in services provided to the Commonwealth's residents, and payments to retirees and beneficiaries may need to be reduced.

The Legislature further finds that the Commonwealth is losing many trained, skilled, educated and professional men and women because the Commonwealth can no longer afford to employ them and/or offer other opportunities for them. The economic situation in the Commonwealth is forcing these individuals to leave the islands for jobs and other opportunities in Guam, Hawaii and in the U.S mainland.

However, the Legislature finds that the enactment of this bill into law will provide many employment opportunities for Commonwealth residents both in government and the private sector.

This Act, authorizing gaming and wagering wherever it is established in the Commonwealth, also impacts the other islands in that it creates direct revenue streams which can be appropriated both by district and commonwealth wide, and amends criminal laws throughout the

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Commonwealth to recognize that gaming is not a criminal activity if conducted pursuant to applicable laws and regulations.

Consequently, the entire Commonwealth should benefit from well-regulated casino gambling in these challenging economic times. This is a comprehensive Act that implicates the Commonwealth government's solemn requirement to provide for the welfare of its residents. Finally, the Legislature finds and declares that this Act is necessary and is a proper use of the legislative power granted by Article II of the Commonwealth Constitution.

PL 18-56 (July 11, 2014) contained, in addition to savings and severability clauses, the following Findings and Purpose and Retroactive Application sections:

Section 1. Findings and Purpose. The Legislature recognizes that Public Law 18-38, as amended by Public Law 18-43, authorized and established an exclusive gaming license for the operation of a casino in the Commonwealth. A well regulated casino industry was determined to be in the best interest of the Commonwealth as it would increase tourism in the Commonwealth, stimulate the economy and provide needed government revenues. The prior law established the framework for the casino industry, but included some ambiguities and conflicts.

Public Law 18-38, as amended by Public Law 18-43, granted the Commonwealth Lottery Commission the power to review applications and issue the exclusive casino license. The law did not clearly provide that the Commonwealth Lottery Commission could carry out the investigation on its own if the Commonwealth Casino Commission was not established by the time the applications were received. Nor did the law clearly authorize the Commonwealth Lottery Commission to expend funds from the application fees to carry out the investigation.

With a good faith belief that it had the authority to do so, the Commonwealth Lottery Commission began its investigation of the applications and expended funds from the application fees to do so. The acts of the Commonwealth Lottery Commission are consistent with the legislative intent of the Act—the power to issue the license must also include the power to carry out all pre-issuance matters, including the investigation of the applicants. To cure any ambiguities and inadvertent omissions in the law and to insure that the law is consistent with the Legislature's intent, the Legislature specifically finds that retroactive application of this Act is necessary. The intent of this Act is to ratify good faith actions taken by the Commonwealth Lottery Commission, including but not limited to, all contracts entered into and expenditures made in the process of reviewing the applications for the exclusive casino license.

The Legislature further finds that repeal and reenactment of Public Law 18-38, as amended by Public Law 18-43, in its entirety is necessary to resolve challenges to the legislative procedure in the passing of H.B. 18-179 and H.B. 18-182. The Legislature maintains that each house of each legislature has the constitutional authority to establish their rules of

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procedure and does not concede that the Open Government Act applies to any legislature. However, to avoid any delay in the implementation of this Act, the Legislature finds that it is prudent and necessary to repeal and reenact Public Law 18-38, as amended by Public Law 18-43, in its entirety and make its application retroactive to the effective date of Public Law 18-38, March 21, 2014.

Section 8. Retroactive Application. This Act shall apply retroactively to March 21, 2014, and shall specifically cover all actions carried out by and all obligations entered into by the Commonwealth Lottery Commission from such date.

PL 19-24 (Dec. 4, 2015) contained, in addition to savings and severability clauses, the following Findings and Purpose section:

Section 1. Findings and Purpose. The Commonwealth Casino Commission was established to regulate casino gaming by the exclusive casino licensee. The Commonwealth Casino Commission has since organized and promulgated, on an emergency basis, regulations governing the conduct of casino gaming by the exclusive casino licensee and will continue its oversight responsibilities by adopting permanent regulations shortly. In so doing, the Commission has identified, and will continue to identify, areas where further legislation is required to enable the Commission to discharge its obligations to the people of the Commonwealth and to uphold and fulfill the terms of the Casino License Agreement granted to the exclusive casino licensee. The legislation proposed herein will ensure the annual funding of the Commission on a continuing appropriation basis by requiring an annual Casino Regulatory Fee regardless of the activities or applications made to the Commonwealth Casino Commission. At all times, the Legislature intends that the Commonwealth Casino Commission is an agency of the Commonwealth.

The Legislature finds and declares that this Act is necessary and is a proper use of the legislative power granted by Article II of the Commonwealth Constitution.

PL 19-24 (Dec. 4, 2015) included a signing statement dated Dec. 4, 2015 by the Governor when received by the Commission which stated, in part:

....

Vetoed Parts of the Enactment

Based on the reasons set forth below I have disapproved the following parts of the enactment:

Section 5, sub-parts (c) and (d) (which provide for a nonrefundable tax credit)

Sub-parts (c) and (d) which provide the licensee with a tax credit to be applied against the CNMI's Gross Revenue Tax in the amount of the casino regulatory fee are disapproved. As originally envisioned in the

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enabling statute, the cost of regulating casino gaming activities on Saipan are to be paid in full by the licensee and I am not convinced there are good reasons to grant tax relief for this expense.

Section 10 (which amends Section 2314 of Title Four of the Commonwealth Code)

The final clause of the third sentence which provides that any decision of the Commission to revoke the exclusive casino license shall be submitted to the legislature for approval by a majority of the members of each house of the legislature through a joint resolution is disapproved as an unconstitutional '*legislative veto*' in conflict with the United States Supreme Court holding originally set out in *Immigration and Naturalization Service v. Chadha*, 462 U.S. 919 (1983).

Section 15 (creating a new section of law)

Section 15 is disapproved in its entirety because it conflicts with Section 13 of the enactment and members of the Commonwealth Casino Commission and its employees are not to be construed as employees of the Commonwealth.

....

The sections and parts of sections affected by the vetoes identified in the signing statement were received with strikethroughs, and have been identified in the Commission Comments to [4 CMC §§ 2309](#), [2313](#), and [2314](#).