

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

§ 50201. Definitions.

Where they appear in this Act the following terms have the following meanings:

(a) “Qualifying Certificate.” A “Qualifying Certificate” is a contract valid for a given period of time, executed by the Governor upon recommendation of the Commonwealth Development Authority Board, between the Government of the Northern Mariana Islands and the Beneficiary, which has qualified for certain tax rebates or tax abatements or for both in return for development, expansion or renovation of a desirable business activity as described in this Chapter.

(b) “Beneficiary.” The recipient of a Qualifying Certificate shall be known as a “Beneficiary.”

(c) “Board” shall mean the Board of Directors of the Commonwealth Development Authority, unless the context indicates otherwise.

(d) “Certificate of Compliance.” A certificate issued by the Commonwealth Development Authority that a Beneficiary has complied with the terms and conditions of the Qualifying Certificate for the previous year.

(e) “Capital Investment” shall mean:

(1) the actual money invested in the project, excluding interest on any loan, for:

(i) the acquisition of any estate in land, including improvements thereon, if any, within the Commonwealth;

(ii) cost of construction;

(iii) start-up costs to include the following:

(A) furniture and fixtures;

(B) salaries and miscellaneous personnel costs;

(C) machinery;

(D) equipment;

(E) inventory;

(F) supplies, and other expenses incurred in the development of the activity under a Qualifying Certificate;

(2) any funds paid to or in-kind contribution transferred to and accepted by the government as a public benefit contribution.

(f) “Expansion” shall mean the extent or amount by which a building, project or activity is increased in dimension, size, volume, capacity or an increase in the number of locations or branches from which the Beneficiary conducts business. In no event, however, shall an event or a collection of events or action that was intended to qualify as an expansion be deemed an expansion if it does not result in a corresponding increase in commercial revenues, products or services, and employment that can be attributed to the purported expansion. The renovation of an existing building, project or activity does not qualify as an expansion except as provided in subsection (g) of this section.

(g) “Renovation” shall mean the modernization, reconstruction, remodeling, upgrading or substantial improvement of an existing building, project or activity

TITLE 4: ECONOMIC RESOURCES

DIVISION 5: BUSINESS REGULATION

which substantially increases the commercial potential of the building, project or activity.

Source: PL 12-32, § 3 (3301); subsection (a) amended and above subsections (c), (e), (f), and (g) added by PL 12-50, § 2 (a); subsection (e)(1)(i) amended by PL 12-80, § 2 (a).

Commission Comment: The Investment Incentive Act being more appropriately in the realm of business regulations than tourism, pursuant to authority granted in 1 CMC § 3806, the Commission codified PL 12-32 under Division 5 (Business Regulations) and not under Division 2 (Tourism) of Title 4 of the Commonwealth Code, as called for in the original text of PL 12-32.

PL 12-32 took effect December 1, 2000 and contained the following short title, findings and purpose, severability, and savings clause provisions:

Section 1. Short Title. This Act shall be known as the “Investment Incentive Act of 2000.”

Section 2. Findings and Purpose. The Legislature finds that it is desirable and necessary to promote the continued economic development of the Commonwealth. The Legislature encourages the development of additional and expansion businesses by offering developers tax incentives to build, expand and operate projects. Providing investment incentives is declared to be a public purpose.

Section 4. Severability. If any provision of this Act or the application of any such provision to any person, or entity 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, entities 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 on the date this Act becomes effective.

PL 12-50 became effective May 1, 2001 and contained findings, severability, and savings clause provisions. In particular, the findings stated:

Section 1. Findings. The Legislature finds that certain amendments to the Investment Incentive Act of 2000 (Public Law 12-32) are necessary to clarify and effectively carry out its intent to offer developers tax incentives to build, expand and operate commercial projects.

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

PL 12-80, which took effect on December 31, 2001, contained the following findings, in addition to severability and savings clause provisions:

Section 1. Findings. In Public Law 12-32, the Legislature found that certain incentives were desirable and necessary to promote the continued economic development of the Commonwealth. That law, as later amended by Public Law 12-50, was intended to encourage the development of new businesses and to encourage the expansion and renovation of existing businesses by offering developers tax incentives to build, expand and operate projects. Providing investment incentives was declared to be a public purpose.

The Legislature now finds that an important category of businesses was overlooked in the Investment Incentive Act of 2000. During the increasingly difficult period of economic decline preceding the passage of PL 12-32, some businesses continued to invest their scarce resources in the Commonwealth. The Legislature finds that those businesses that made investments in the CNMI at great risk to their own existence for the benefit of the Commonwealth should be entitled to apply for benefits of the Act.