

TITLE 4: ECONOMIC RESOURCES
DIVISION 5: BUSINESS REGULATION

§ 5951. Foreign Investment Certificate; Conditions.

(a) A certificate of Foreign Investment is a certificate issued to an alien who has met all the standards and conditions enumerated in this part as proof of the holder's participation as an alien investor in an approved investment in the Commonwealth. The holder shall have the right to lawfully engage in business in the Commonwealth as long as the alien investor complies with the terms upon which the certificate was issued.

(b) The application fee for a foreign investor certificate shall be paid to the CNMI Treasurer prior to filing an application for this certificate with the secretary.

(c) All applications for a foreign investor certificate must be made only after the applicant has lawfully entered the Commonwealth. Holders of a short term business entry permit, a regular term business certificate, or a long term business certificate shall be eligible to apply for a foreign investor certificate.

Source: PL 10-44, § 7 ("Part II - Foreign Investments" regulations (Commonwealth Register, Vol. 17, No. 01, January 15, 1995) § 1101A., modified; § 1101A.1., that is redesignated as subsection (a) of this section, was rescinded and reenacted by PL 10-44, § 7(d); subsection (a) amended by PL 12-11, § 4 b., modified; (a) amended by PL 14-67, § 5.

Commission Comment: PL 12-11, which amended subsection (a) of this section took effect on August 3, 2000. PL 12-11 contained title, findings and purpose, severability, and savings clause provisions as follows:

Section 1. Title. This Act may be cited as the Omnibus Labor and Business Reform Act of 2000.

Section 2. Findings and Purpose. The Legislature finds that over the past several years, many laws have been enacted that unduly restrict the ability of people to do business. We do not believe that it is in the interests of the Commonwealth to stifle commerce by enacting restrictive laws, especially when our economy is in great need of revitalization. The Legislature further finds that although there is a need to protect jobs for our local residents, if there is no qualified local person to fill a business need, then the government should adopt policies to help business otherwise meet staffing needs. Finally, the Legislature recognizes the need to encourage new business development, and this should be done with as little government intrusion or regulation as necessary.

Section 8. 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 9. 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

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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 14-67 took effect on May 19, 2005 and contained the following short title, findings, and refund provisions, in addition to severability and savings clauses and enactment of 4 CMC §§ 2495, 2496, and 5958. Of particular interest is the provision for refund of the \$100,000 security deposit formerly required of foreign investors by 4 CMC § 5951(a).

Section 1. Short Title. This Act may be cited as the “Office of Foreign Investment Assistance Act of 2005.”

Section 2. Findings. The Legislature finds that many foreign investors who come to the Commonwealth are discouraged or frustrated with the lack of assistance in establishing investment ventures. The Commonwealth does not have an office that provides comprehensive services to foreign investors. Therefore, the Legislature finds that there is a need for an Office of Foreign Investment Assistance within the Department of Commerce.

The Legislature further finds that the bonding requirement for investors in the Commonwealth is currently excessive, particularly when labor bonding exists as a prerequisite to employment of non-resident workers. The Legislature further finds that the Department of Commerce Foreign Investment Review Committee adequately screens potential investors in the Commonwealth. Based on the foregoing reasons, the Legislature finds that prospective investors for long-term (2 year) business certificates should be required to post a bond or security deposit as currently required in order to invest in the Commonwealth. However, no security deposit should be required of foreign investment certificate holders under 4 CMC § 5951(a), and any security deposits currently on deposit with the CNMI Government should be refunded.

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Section 4. Refund of § 5951(a) Security Deposit. The Department of Finance shall refund any 4 CMC § 5951(a) security deposit to the respective alien investor within 60 days upon written request by the alien investor.