

SECOND REGULAR SESSION, 1998

AN ACT

To revise the requirements for issuance of an occupancy permit for large development projects subject to the developer tax; to amend 4 CMC, Section 1936; to amend 2 CMC, Section 7134; and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Findings and Purpose. The Legislature finds that:

(a) The provision in the Developer Infrastructure tax prohibiting the issuance of an occupancy permit for a project subject to the developer tax except upon final payment of the entire tax due on the fully completed project is overly restrictive.

(b) In particular, the time required for the Department of Finance to verify the final tax due on large projects can unduly delay the opening and beneficial use of the project or a portion thereof.

(c) It is the purpose of this act to revise the tax and building safety requirements to permit partial occupancy and use of projects subject to the developer tax under appropriate circumstances and with proper safeguards.

Section 2. 4 CMC, Section 1936, "Payment of Developer Tax," is amended by deleting the second paragraph of subsection (c) and substituting thereof a new paragraph to read as follows:

"An occupancy permit shall not be issued by the Building Safety Division unless the developer has paid the remainder of the developer tax due, provided that an occupancy permit may be issued for any reasonably severable portion of the project of which the estimated tax has been paid. If the total estimated project cost including change orders exceeds thirty million dollars and the developer is making payments under a schedule of payments provided for in subsection (a), upon certification by the Secretary of Finance that the developer is current in its payments an occupancy permit may be issued for any completed portion of the project prior to payment of the remainder of the tax due for the completed project; but if the Secretary of Finance subsequently notifies the Building Safety Division that the developer has failed to make

tax payments as scheduled the occupancy permit shall be revised to include only any reasonably severable portion of the project for which the estimated tax has been paid, or revoked, as appropriate."

Section 3. 2 CMC, Section 7134, "Restriction on Issuance of Occupancy Permit," is amended to read as follows:

"The Building Safety Division shall not issue an occupancy permit to a developer as defined by 4 CMC § 1932 except as provided in 4 CMC § 1936(c) relating to payment of the developer tax."

Section 4. Severability. If any provision of this act or any regulation issued under the authority of this Act should be declared invalid or unenforceable by a court of competent jurisdiction, the judicial determination shall not affect the Act or the regulations as a whole, or any part thereof, other than the particular part declared invalid or unenforceable, and to this extent the provisions of this Act.

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 at the date this Act becomes effective.

Section 6. Effective Date. This Act shall take effect upon its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

ATTESTED BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 17th day of September, 1998

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands