

THIRTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SIXTH SPECIAL SESSION, 2003

**PUBLIC LAW NO. 13-56
H. B. NO. 13-317, HD1**

AN ACT

To fully fund the dialysis centers in the first and second senatorial districts by appropriating account balances from the CDA asset accounts in the amount of \$2,000,000, and to fully fund the Commonwealth Prison Project by amending PL 12-64, as amended, to specify the revenue source for repayment of bond issuance and to authorize the use of any available funds to provide an alternative interim funding source; and for other purposes.

**BE IT ENACTED BY TI~ THIRTEENTH NORTHERN MARIANAS
COMMONWEALTH LEGISLATURE:**

Section 1. Findings and Purposes. The Legislature finds that the Commonwealth Prison Project, a CNMI Capital Improvement Project, is in need of additional financing to complete the construction of a prison in compliance with applicable standards of a long-term incarceration facility. The Legislature recognizes that Section 7 of Public Law 12-64; as amended by Public Law 13-18, appropriated funds to the Commonwealth Prison Project and to build dialysis treatment facilities on the islands of Tinian and Rota. These projects have remained unfunded due to CDA's inability to borrow funds due to the absence of any reliable funding source for repayment.

This Act addresses the funding quandary by first appropriating a total of \$2 million from account balances of the Development Banking Division asset accounts of CDA to fully fund the dialysis centers in the first and second senatorial districts. Second, this Act provides funding for the prison's shortfall from the loan provided under section 7 of Public Law 12-64, which this Act revises by identifying a specific source of repayment presently available for such purpose. Further, given the eminent need for funding of the prison project, an interim financing source must also be identified until such time as CDA can obtain necessary financing. Therefore, CDA is authorized to use any available funds at its discretion to finance the prison project under P.L. 12-64, as amended.

Section 2. Appropriation. From the account balances of the Development Banking Division asset accounts of the Commonwealth Development Authority, the sum of \$2,000,000 is hereby appropriated as follows:

- (a) \$1,000,000 for A&E and construction costs of the First Senatorial District dialysis center, and
- (b) \$1,000,000 for A&E and construction costs of the Second Senatorial District dialysis center.

"Expenditure authority over funds appropriated under this section shall be the Secretary of the Department of Public Health.

Section 3. Repealer and Re-enactment. Section 7(d) of PL 12-64, as amended, is hereby repealed and re-enacted to read as follows:

"(d) The Commonwealth Development Authority is hereby authorized to borrow a sum not to exceed \$11,000,000 from a financial institution or other sources for the financing of the special appropriation projects under this section. Repayment of the funds borrowed under this subsection shall be made at the discretion of the CDA Board of Directors and shall include, but is not limited to future interest earnings of the bond fund provided by P.L. 11-102, future loan repayment by the Commonwealth Utilities Corporation, Commonwealth Ports Authority, and Northern Marianas Housing Corporation, future dividend payments by CUC and CPA, and any future bond issue for CIP projects including but not limited to bond issues pursuant to P.L. 13-17, as amended. Such borrowing shall carry the pledge and full faith of the Commonwealth of the Northern Mariana Islands. Such pledge, if necessary, will contain identification of general fund revenues to be appropriated for full and/or partial payment of the authorized loan. Such appropriation shall be continuous until the loan is paid in full. The CDA Board of Directors, with concurrence of the Department of Finance, on behalf of the Commonwealth government, may execute a loan agreement for purposes of this section. Provided, however, the term of the public indebtedness may not exceed ten years, the rate of interest may not exceed the

competitive prime rate prevailing at the time of closing. The interest costs of such a loan shall be free of related taxes to the lender. The loan amount shall be limited to providing financing for the unfunded balance of the prison project.

Notwithstanding any other provision of law, in the event that CDA is unable to immediately secure a loan to finance the completion of the prison, CDA is hereby authorized to use any available funds, including but not limited to funds from interim financing and/or bond issuances pursuant to P.L. 13-17, as amended, in an amount not to exceed \$11,000,000 for the completion of the prison.

Regardless of whether CDA secures a loan for financing the special appropriations projects or utilizes an alternative funding source as authorized in this section, those funds available and appropriated under this Act shall be limited to funding the unfunded liability for the prison project."

Section 4. Repealer and Re-enactment. Section 3(c) of PL 13-17, as amended by PL 13-25 and PL 13-39, is repealed and re-enacted to read as follows:

"(c) The authorization for public debt hereunder is made only for the purpose of acquisition of real property through funding the retirement of land compensation claims against the Commonwealth, and for the purpose and amount limit set forth in Section 7(d) of PL 12-64, as amended. Provided, however, the total principal amount of indebtedness authorized herein shall not to exceed \$40,000,000 outstanding at any time, inclusive of any commission or fee, and costs of issuance, reserves, credit enhancement or other similar expenses."

Section 5. Amendment. Section 4(d) of PL 13-17, as amended by PL 13-39, is revised as follows:

"(d) Transfer of Bond Proceeds to MPLA. After satisfying any commission or fee, costs of issuance, reserves, credit enhancement, interim bond financing or other similar expenses and after transferring the requisite amount for the Commonwealth prison project to the Department of Finance

for deposit into an account for the project, the CDA-appointed trustee, pursuant to Public Law 11-3, shall retain the remaining balance of the bond proceeds. The trust funds and earnings thereof are hereby continuously appropriated solely for the purpose of paying out land compensation claims subject to conditions necessary to maintain tax exemption of the bonds or any interim financing. The Commissioner of MPLA shall have expenditure authority over the trust funds subject to approval of claims by the Board. Such funds shall be drawn down from the trustee based upon procedures established by the MPLA Board and upon the concurrence of the Secretary of Finance."

Section 6. Repealer. Public Law 13-18 which amends section 7 of Public Law 12-64 is hereby repealed.

Section 7. 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 8. 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 the 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.

Section 9. Effective Date. This Act shall take effect upon its approval by the Governor or becoming law without such approval.

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____

HEINZ S. HOFSCHEIDER
SPEAKER OF THE HOUSE

/s/ _____

EVELYN C. FLEMING
HOUSE CLERK

Approved this 25th day of July, 2003

/s/ _____

JUAN N. BABAUTA
GOVERNOR

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS