



HOUSE OF REPRESENTATIVES
FIFTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FIRST REGULAR SESSION, 2006

PUBLIC LAW NO. 15-12
H. B. No. 15-64, HS1, HD3

AN ACT

To authorize the Commonwealth Development Authority (CDA) to write off the principal sum and interest due to it, from loans extended to the Commonwealth Utilities Corporation referenced in the amended Memorandum of Agreement between CUC and CDA executed on January 13, 2004 and January 17, 2004, by each respective public corporation; and for other purposes.

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

1 **Section 1. Findings.** The Legislature finds that the Commonwealth Development
2 Authority (CDA) and the Commonwealth Utilities Corporation (CUC), formerly a public
3 corporation and now allocated to the Department of Public Works by Executive Order No.
4 2006-1, have been involved in a legal dispute regarding loans extended to CUC by CDA in
5 the Superior Court of the Commonwealth. The parties have attempted to resolve their dispute
6 numerous times but to no avail and the Superior Court has stated that both parties are
7 government agencies and could resolve their differences without court intervention. In
8 January 2004, CUC and CDA executed an Amended Memorandum of Agreement (AMOA)
9 setting forth the terms of their agreement. The Legislature, however, finds that CUC is in a
10 state of severe financial crisis and is unable to make payments pursuant to the said AMOA.
11 At this time, CUC's main struggle surrounds its fuel cost payment every month, costs which
12 continue to rise each month.

13 Moreover, the Legislature finds that the funds provided to CUC by CDA were from a
14 \$140 million direct grant assistance to the CNMI from the federal government without any
15 repayment requirement. The Legislature further finds that CDA acted as a conduit for the
16 distribution of the said funds which was to be used for infrastructure development in the
17 CNMI. CDA distributed the said funds to various government agencies, other than CUC,

1 without requiring the said agencies to pay back the funds given to them. Arguably, CUC, too,
2 should not have to pay back the funds given to it by CDA and the funds were used for
3 infrastructure development, i.e. power, water, and sewer projects. Accordingly, the
4 Legislature further finds that it is in the best interest of the CNMI to write off in full CUC's
5 loans from CDA in order to promote the stability of CUC and to secure the continuity of
6 public utility services to the people of the CNMI.

7 Furthermore, the Legislature further finds that Public Laws 12-1, and 13-36 are
8 impediments in the way of rehabilitating and reorganizing the Commonwealth Utilities
9 Corporation. Accordingly, the legislature finds that it is in the best interest of the people of
10 the Commonwealth to repeal the above-referenced public laws.

11 **Section 2. Amendment.** Title 4, Division 10, Chapter 6 of the Commonwealth Code
12 is hereby amended by adding a new § 10603 to read as follows:

13 "§ 10603. *CDA-CUC Loan Principal and Interest Write Off.* The
14 Commonwealth Development Authority (CDA) is hereby authorized to waive the sum
15 of \$45,500,000.00 of the principal amount owed by the Commonwealth Utilities
16 Corporation (CUC), such amount being the aggregate sum of all outstanding sewer
17 and water project loans given to CUC and referenced in the Amended Memorandum
18 of Agreement between CDA and CUC executed on January 13, 2004 and January 17,
19 2004, by each respective public corporation. Pursuant to the same Amended
20 Memorandum of Agreement, CDA is hereby authorized to waive any and all accrued
21 interest owed by CUC on all outstanding loans in accordance with the terms and
22 conditions of the Amended Memorandum of Agreement, such terms and conditions
23 being incorporated herein by reference. However, in the event that the power
24 generation system for the CNMI is privatized and controlled by an independent power
25 producer, fifty percent of the principal amount of \$45,500,000.00 shall be paid by the
26 independent power producer to the Commonwealth Development Authority. Such
27 payment shall be reserved and used for loan programs administered by the
28 Commonwealth Development Authority or its successor agency."

1 **Section 3. Repealer.** The following public laws are hereby repealed in their entirety:

2 A. Public Law 12-1 is hereby repealed in its entirety.

3 B. Public Law 13-36 is hereby repealed in its entirety.

4 **Section 4. Severability.** If any provision of this Act or the application of any such
5 provision to any person or circumstance should be held invalid by a court of competent
6 jurisdiction, the remainder of this Act or the application of its provisions to persons or
7 circumstances other than those to which it is held invalid shall not be affected thereby.

8 **Section 5. Savings Clause.** This Act and any repealer contained herein shall not be
9 construed as affecting any existing right acquired under contract or acquired under statutes
10 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
11 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
12 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
13 any liability, civil or criminal, which shall already be in existence on the date this Act
14 becomes effective.

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

CERTIFIED BY:

ATTESTED TO BY:

/s/ _____

OSCAR M. BABAUTA
SPEAKER OF THE HOUSE

/s/ _____

EVELYN C. FLEMING
HOUSE CLERK

APPROVED on this 6th day of JUNE, 2006

/s/ _____

BENIGNO R. FITIAL
GOVERNOR

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS