



COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Eloy S. Inos
Governor

Ralph DLG. Torres
Lieutenant Governor

NOV 13 2015

Honorable Victor B. Hocog
Senate President, The Senate
Nineteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Honorable Joseph P. Deleon Guerrero
Speaker, House of Representatives
Nineteenth Northern Marianas
Commonwealth Legislature
Saipan, MP 96950

Dear Mr. President and Mr. Speaker:

This is to inform you that I have signed into law Senate Bill No. 19-48, HD1, entitled, "To amend 4 CMC §§ 2201(c) and 2205(a) to authorize CPA to grant a master concession agreement for each point of entry at Saipan, Tinian or Rota, respectively; and for other purposes," which was passed by the Senate and the House of Representative of the Nineteenth Northern Marianas Commonwealth Legislature.

This bill becomes **Public Law No. 19-21**. Copies bearing my signature are forwarded for your reference.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph DLG. Torres".

RALPH DLG. TORRES
Acting Governor

cc: Governor; Attorney General's Office; Commonwealth Ports Authority; Mayor of Saipan, Mayor of Tinian; Mayor of Rota; Division of Customs; Public Auditor; Special Assistant for Administration; Special Assistant for Programs and Legislative Review



THE SENATE
Nineteenth Northern Marianas Commonwealth Legislature
P. O. Box 500129
Saipan, MP 96950

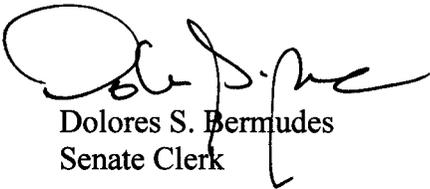
November 03, 2015

The Honorable Ralph DLG. Torres
Acting Governor
Commonwealth of the Northern Mariana Islands
Capital Hill
Saipan, MP 96950

Dear Acting Governor Torres:

I have the honor of transmitting herewith Senate Bill No. 19-48, HD1 entitled: "To amend 4 CMC §§ 2201(c) and 2205(a) to authorize CPA to grant a master concession agreement for each point of entry at Saipan, Tinian, or Rota, respectively; and for other purposes," which was passed by the Senate and the House of Representatives of the Nineteenth Northern Marianas Commonwealth Legislature.

Sincerely,



Dolores S. Bermudes
Senate Clerk

Attachments



THE SENATE
NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

SENATE BILL NO. 19-48, HD1

AN ACT

To amend 4 CMC §§ 2201(c) and 2205(a) to authorize CPA to grant a master concession agreement for each point of entry at Saipan, Tinian, or Rota, respectively; and for other purposes.

SENATE ACTION

Offered by Senator(s): Victor B. Hocog

Date: June 18, 2015

Referred to: Committee on Judiciary, Government and Law

Standing Committee Report No.: 19-36 adopted on 7/23/15

Final Reading: July 23, 2015 - Passed HD1 on 10/29/15

SENATE ACTION

Referred to: Committee on Commerce and Tourism

Standing Committee Report No.: 19-40 adopted on 10/27/15

First and Final Reading: October 27, 2015

A handwritten signature in black ink, appearing to read "Dolores S. Bermudes".

DOLORES S. BERMUDES
SENATE CLERK

NINETEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE

FIFTH SPECIAL SESSION, 2015

S. B. NO. 19-48, HD1

AN ACT

To amend 4 CMC §§ 2201(c) and 2205(a) to authorize CPA to grant a master concession agreement for each point of entry at Saipan, Tinian, or Rota, respectively; and for other purposes.

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

1 **Section 1. Findings and Purpose.** The Legislature finds that the first
2 Commonwealth Ports Authority (CPA) duty-free concession agreement was executed in
3 1974 for the exclusive duty-free concession privileges at the Saipan International Airport
4 only. Subsequently in 1985, the Legislature enacted Public Law 4-60 (codified at 4 CMC
5 2201 *et seq.*), which regulated concessions at CNMI ports of entry. Public Law 4-60
6 established three types of concessions: (1) Duty-free Retail Concession – grants the
7 exclusive right to operate facilities at a port of entry to deliver duty-free merchandise; (2)
8 Master Concession – grants the exclusive right to operate facilities at each and every port of
9 entry for the sale of duty-free and any other items of merchandise; and (3) Non-duty-free
10 Concession – grants at a port of entry...the exclusive right to use that port of entry to offer
11 to...sell all or specified non-duty-free merchandise.

12 The Legislature further finds that CPA and DFS Saipan, Ltd. entered into a master
13 concession agreement (MCA) in 1985 for twenty years following the enactment of Public
14 Law 4-60. The 1985 MCA, which was set to expire in 2005, was extended for another 10
15 years in 1997 through a successive MCA. The current successive MCA (SMCA) is set to
16 expire on November 15, 2015.

SENATE BILL NO. 19-48, HD1

1 The Legislature finds that although previous MCA and current SMCA provides that
2 DFS Saipan has exclusive concession privileges at all points of entries in the CNMI, i.e.
3 Saipan, Tinian, and Rota, DFS Saipan has only operated stores at the Saipan International
4 Airport. DFS Saipan has not exercised its exclusive privileges at the Tinian and Rota
5 International Airports partially due to the low retail demand, low passenger traffic and
6 unstable air service at each airport, respectively. Although international airplanes are not
7 landing at the Tinian and Rota international airports regularly, the Legislature finds that it is
8 important to provide opportunities for other national or international concessionaires to open
9 duty-free and non-duty free concessions, or master concessions at the Tinian and Rota
10 international airports and seaports. These exclusive island concession opportunities will
11 generate additional revenue for CPA, stimulated the economies of Tinian and Rota, and
12 provide additional retail options for the visiting passengers.

13 Therefore, the purpose of this legislation is to amend the definition of a master
14 concession as set forth in 4 CMC § 2201(c) and as used in 4 CMC § 2205(a) to authorize
15 CPA to grant separate master concession agreements for the airport and seaport of each
16 island – Saipan, Tinian, and Rota, respectively.

17 **Section 2. Amendment.** 4 CMC § 2201(c) is hereby amended to read as follows:

18 “(c) Master concession means a contract between the Commonwealth Ports
19 Authority and a person which grants that person the exclusive right to operate facilities at
20 each and every port of entry on Saipan, Tinian or Rota, respectively for the sale of duty-free
21 and any other item of merchandise (including, without limitation, food and beverages
22 intended for on-premises consumption), and the exclusive right to use each and every port of
23 entry on Saipan, Tinian, or Rota, respectively to deliver duty-free and any other item of
24 merchandise, sold in less than a wholesale quantity, to or for the direct or indirect benefit of
25 a departing individual (regardless of the time or place of the individuals departure and
26 regardless of the time or place of the order and/or payment for the merchandise). Provided,
27 that the holder of the master concession may grant permission for a minority business, small
28 business and/or business owned by a handicapped individual to engage in the on-premises
29 sale of one or more specified type of merchandise at a port of entry (but not in the use of a

1 port of entry for delivery of merchandise ordered and/or paid for elsewhere). Provided
2 further, that if the Commonwealth Ports Authority substantially redevelops and renovates a
3 sea port of entry, and wishes to offer new concession rights for use of that sea port of entry,
4 the Commonwealth Ports Authority shall, upon completion of such redevelopment and
5 renovation, terminate the rights and obligations under the master concession that relate to
6 that sea port of entry; however, if the new concession rights for use of that sea port of entry
7 are offered by public auction or public bid, the master concessionaire shall be accorded a
8 full opportunity to seek such rights; if such rights are offered pursuant to 4 CMC 2206, the
9 master concessionaire shall be considered the then-incumbent concessionaire; and if such
10 rights are offered in any other manner, the master concessionaire shall retain such rights if it
11 meets the best bona fide offer for such rights made by another person.

12 **Section 3. Amendment.** 4 CMC § 2205(a) is hereby amended to read as follows:

13 (a) Notwithstanding any other provision of law, the Commonwealth Ports Authority
14 shall promptly proceed to determine whether it is in the best interests of the Commonwealth
15 to offer and award a master concession for the port of entry facilities on Saipan, Tinian, or
16 Rota, respectively. In making this determination, the Commonwealth Ports Authority may
17 take into account any factors it may deem appropriate, but shall not be required to hold
18 hearings, take evidence or make findings of fact. If the Commonwealth Ports Authority
19 determines that a master concession is in the best interests of the Commonwealth, it shall
20 enter into such a contract with one person for a term which may be up to 20 years from the
21 effective date of the concession, plus extensions beyond 20 years in the event of default by
22 the Commonwealth Ports Authority, in the manner provided in 4 CMC § 2206. The
23 Commonwealth Ports Authority may lease, rent, or let any land or building or any part
24 thereof or any interest therein, situated in any port of entry, to any person to establish a
25 master concession, and may engage in such other conduct as is appropriate or incident to the
26 award, execution or enforcement of such a concession. The concession agreement may grant
27 such rights in addition to those set forth in 4 CMC § 2201(c), and contain such other terms
28 and conditions, not in conflict with the provisions of this chapter, as the Commonwealth
29 Ports Authority deems appropriate, including, without limitation, concession fees, hours of

1 business, standards of operation, reasonableness of prices charged and appropriate record
2 keeping, cash handling and audit procedures all in accordance with generally accepted
3 accounting principles. On behalf of the Commonwealth government, and notwithstanding
4 any other provision of law, the Commonwealth Ports Authority may waive the imposition of
5 all taxes and business license and permit fees and requirements on the holder of a master
6 concession, its property or its customers, relating to operations under concession, except for
7 the concession fee, the license fee provided for in 4 CMC § 2208, and a business gross
8 revenue tax in accordance with the terms set forth in 4 CMC § 2202(h).”

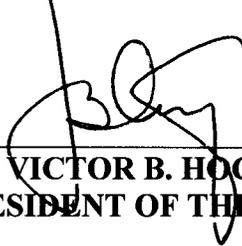
9 **Section 4. Severability.** If any provision of this Act or the application of any such
10 provision to any person or circumstance should be held invalid by a court of competent
11 jurisdiction, the remainder of this Act or the application of its provisions to persons or
12 circumstances other than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

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

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

SENATE BILL NO. 19-48, HD1

CERTIFIED BY:



VICTOR B. HOCOG
PRESIDENT OF THE SENATE

ATTESTED BY:



TERESITA A. SANTOS
SENATE LEGISLATIVE SECRETARY

Approved this *13th* day of *November*, 2015



RALPH DLG. TORRES
Acting Governor
Commonwealth of the Northern Mariana Islands