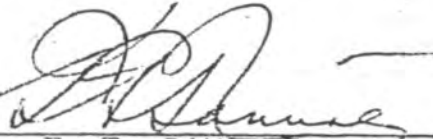
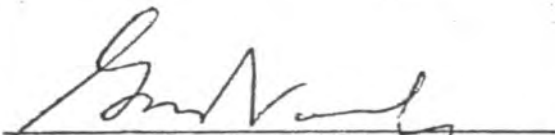


CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR


This is to certify that Bill No. 475, "An Act to add a new Title XXXIX-A, entitled the "American Investors Act" to the Government Code of Guam to provide a way for American investors whose principal place of business is outside of Guam to provide developmental capital in Guam without being subject to taxes normally applied to companies doing business in Guam", was on the 4th day of April, 1974, duly and regularly passed.


F. T. RAMIREZ
Speaker


ATTESTED:


G. M. BAMBA
Legislative Secretary

This Act was received by the Governor this 15th day
of April, 1974 at 2:50 o'clock 9 .M.


KEITH L. ANDREWS
Attorney General of Guam

APPROVED:


CARLOS G. CAMACHO
Governor of Guam

DATED: 4/22/74
3:21 P.M.

P.L. 12-122

Bill No. 475

Introduced by A. C. Ysrael

AN ACT TO ADD A NEW TITLE XXXIX-A,
ENTITLED THE "AMERICAN INVESTORS
ACT" TO THE GOVERNMENT CODE OF GUAM
TO PROVIDE A WAY FOR AMERICAN
INVESTORS WHOSE PRINCIPAL PLACE OF
BUSINESS IS OUTSIDE OF GUAM TO PROVIDE
DEVELOPMENTAL CAPITAL IN GUAM WITHOUT
BEING SUBJECT TO TAXES NORMALLY APPLIED
TO COMPANIES DOING BUSINESS IN GUAM.

1 BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

2 Section 1. There is hereby added to the Government Code
3 of Guam a new Title XXXIX-A, entitled, "American Investors
4 Act," which shall read as follows:

5 "TITLE XXXIX-A

6 American Investors Act

7 Section 43600. Short title. This law may be cited
8 as the 'American Investors Act.'

9 Section 43600.1. Definitions. As used in this
10 Title:

11 (a) 'State' means any of the United States, the
12 District of Columbia, Puerto Rico, the Virgin Islands,
13 American Samoa and the Trust Territory of the Pacific
14 Islands.

15 (b) 'American lender' means (1) a member of the
16 Federal Reserve System, an 'insured bank' as defined in
17 the Federal Deposit Insurance Act, and 'insured
18 institution' as defined in the Federal Savings and Loan
19 Insurance Corporation Act, a federally chartered savings
20 and loan association, a 'real estate investment trust'
21 as defined in the Internal Revenue Code, or an insurance
22 company, the principal office of which is in a state,
23 whether incorporated or unincorporated and whether
24 acting in its individual capacity or in a fiduciary

1 capacity; (2) the trustee or trustees from time to time
2 in office of any employee benefit plan; (3) any
3 corporation all of the capital stock of which (except
4 directors' qualifying shares) is owned by one or more
5 American lenders of the classes specified in clauses (1)
6 and (2) of this paragraph; but the term 'American lender'
7 does not include any small loan or industrial loan
8 company or similar business.

9 (c) 'Employee benefit plan' means any plan, fund,
10 or program which was heretofore or is hereafter
11 established in and under the laws of a state by an
12 employer or by an employee organization, or both, for
13 the purpose of providing for its participants or their
14 beneficiaries, through the purchase of insurance or
15 annuity contracts or otherwise, medical, surgical or
16 hospital care or benefits, or benefits in the event of
17 sickness, accident, disability, death, or unemployment,
18 or retirement benefits, and includes any profit-sharing
19 plan which provides benefits at or after retirement.
20 As used in the preceding sentence, the term 'employee
21 organization' means any labor union or any organization
22 of any kind, or any agency or employee representation
23 committee, association, group, or plan in which employees
24 participate and which exists for the purpose, in whole
25 or in part, of dealing with employers concerning an
26 employee benefit plan or other matters incidental to
27 employment relationships or any employees' beneficiary
28 association organized for the purpose, in whole or in
29 part, of establishing such a plan.

30 (d) 'Loans' means obligations secured by liens
31 upon real property, or any interest in real property,
32 situated in Guam, which liens may also cover such

1 personal property as is or may from time to time be
2 affixed or attached to or located on or in or about the
3 real property or any improvements thereon or thereto, and
4 include obligations secured by liens upon real property
5 or interests therein situated both within and without Guam.

6 Section 43600.2. Exemptions and immunities. An
7 American lender which (a) does not maintain a place of
8 business in Guam, (b) conducts its principal activities
9 outside Guam, and (c) complies with this Title, does not
10 by engaging in Guam in any or all of the activities
11 specified in the following section violate the laws of
12 Guam relating to doing business or doing a banking, trust,
13 or insurance business, or become subject to Title XXXI
14 (Banking Code), XXXVII (Savings and Loan Association Act),
15 XXXIX (Insurance Law) and XLI (Uniform Securities Act) of
16 the Government Code of Guam and Division First, Part IV,
17 Title I (General Corporation Law) and Title IV (Industrial
18 Development Corporations) of the Civil Code of Guam, or
19 become subject to any taxation which would otherwise be
20 imposed for doing business in or doing a banking, trust,
21 organization, or insurance business in, or having gross income or
22 of any kind, or any amount of employer contribution
23 receipts from sources in, property in, or the conduct of
24 any activity in Guam, or become subject to any taxation
25 under Title XX (Taxation) of the Government Code of Guam,
26 and no income or receipts of any American lender arising
27 out of any of the activities specified in the following
28 section shall constitute income from sources in, property
29 in, or activities conducted in this territory for the
30 purpose of any tax imposed by Guam; provided that nothing
31 in this part shall be construed to exempt the real
32 property of an American lender from taxation to the same
extent, according to its value, as other real property

1 is taxed, or to preclude the inclusion of dividends or
2 other income from American lenders in the income of
3 individuals taxable under Section 31 of the Organic
4 Act of Guam, as amended, to the same extent as is
5 included dividends and other income from Guam lenders;
6 and provided further, that if any American lender shall
7 acquire any property in Guam in enforcement of the rights
8 of the American lender in the event of a default by any
9 borrower, as permitted by the laws of Guam, then
10 commencing one year after Title to such property has
11 vested in the American lender, the rents or other
12 receipts received by the American lender, and the proceeds
13 of sale by the American lender of, such property, shall
14 be subject to taxation under the laws of Guam in the
15 same manner and to the same extent as if the rents, other
16 receipts, or proceeds were received by a resident of Guam.

17 Section 43600.3. Permitted activities. The
18 activities referred to in the preceding section are:

- 19 (a) Making loans;
- 20 (b) Receiving security for loans;
- 21 (c) Acquiring by assignment or otherwise partial
22 or insurance or entire interests in loan or in security
23 for loans;
- 24 (d) Servicing (but servicing only by or through
25 individuals who are residents of, or corpora-
26 tions doing business, in Guam), collecting,
27 enforcing, or otherwise realizing upon loans
28 or upon security for loans or upon interests
29 therein; and taking, holding, and disposing
30 of any property acquired (whether by purchase
31 at any sale pursuant to foreclosure by entry,
32 or by conveyance in lieu of foreclosure) in

1 enforcement of the rights of the American
2 lender in the event of default by any borrower;
3 and

4 (e) Empowering agents and servants or in connection
5 with, and entering into and performing
6 contracts, and doing other acts and things
7 necessary or appropriate for or preliminary
8 or incident to, any of the foregoing activities,
9 but not maintaining any office in Guam for
10 the conduct of any such activities.

11 Section 43600.4. Filing and effect of statement.

12 Before engaging in Guam in any of the activities
13 specified in Section 43600.3, an American lender shall
14 execute and file with the Director of Revenue and
15 Taxation a statement. The statement shall list its
16 name, state of incorporation or organization, and
17 principal place of business, shall certify that its
18 principal activities are conducted outside Guam, and
19 shall appoint irrevocably the director and his
20 successors its agents upon whom may be served process
21 against it on any proceeding or cause of action arising
22 out of its engaging in this territory in any of the
23 activities referred to in Section 43600.3 Until the
24 statement is filed the immunities provided in this
25 Title do not become operative. Upon the filing of the
26 statement and after a determination by the Director
27 that the American lender qualifies for exemption under
28 this Title, the immunities provided by this Title
29 shall continue operative until the statement is
30 withdrawn by the American lender or canceled by the
31 Director pursuant to Section 43600.5, but no such
32 withdrawal or cancellation shall retroactively affect
33 or impair any of the immunities provided by this Title.

1 Section 43600.5. Cancellation of statement.

2 (a) If after notice and hearing as hereinafter
3 provided, the Director of Revenue and Taxation shall
4 determine that any American lender having on file a
5 statement as provided in Section 43600.4, (1) maintains
6 an office in Guam, (2) conduct its principal activities
7 in Guam, or (3) is or was formed or availed of by or
8 for the account or benefits, directly or indirectly, of
9 one or more residents of, corporations organized under
10 the laws of, or employee benefit plans organized or
11 having their principal offices in Guam with a view to
12 avoiding the imposition of any taxes imposed by Guam,
13 the Director shall by order cancel the American lender's
14 statement.

15 (b) In giving notice of and conducting hearings,
16 and in making and entering orders, pursuant to subsection
17 (a), the Director shall have all of the powers conferred
18 him as the insurance commissioner by, and shall observe
19 and comply with, and the hearings shall be conducted at
20 the time or times in the manner specified in, and subject
21 in all respects to Title XXXIX, Chapter I, Article II
22 of the Government Code of Guam. Appeals from orders
23 made and entered pursuant to Subsection (a) of this
24 section may be taken at the time and in the manner
25 provided for to the Island Court of Guam or its successor.

26 Section 43600.6. Construction. Nothing in this
27 Title shall require any corporation to qualify to do
28 business in Guam, or subject any person, firm, corpor-
29 ation, or trust to taxation under any law of Guam if,
30 but for the enactment of this Title, the person, firm,
31 corporation, or trust would not have been required so
32 to qualify or be subject to such taxation."

1 Section 43600.5. Cancellation of statement.

2 (a) If after notice and hearing as hereinafter
3 provided, the Director of Revenue and Taxation shall
4 determine that any American lender having on file a
5 statement as provided in Section 43600.4, (1) maintains
6 an office in Guam, (2) conduct its principal activities
7 in Guam, or (3) is or was formed or availed of by or
8 for the account or benefits, directly or indirectly, of
9 one or more residents of, corporations organized under
10 the laws of, or employee benefit plans organized or
11 having their principal offices in Guam with a view to
12 avoiding the imposition of any taxes imposed by Guam,
13 the Director shall by order cancel the American lender's
14 statement.

15 (b) In giving notice of and conducting hearings,
16 and in making and entering orders, pursuant to subsection
17 (a), the Director shall have all of the powers conferred
18 him as the insurance commissioner by, and shall observe
19 and comply with, and the hearings shall be conducted at
20 the time or times in the manner specified in, and subject
21 in all respects to Title XXXIX, Chapter I, Article II
22 of the Government Code of Guam. Appeals from orders
23 made and entered pursuant to Subsection (a) of this
24 section may be taken at the time and in the manner
25 provided for to the Island Court of Guam or its successor.

26 Section 43600.6. Construction. Nothing in this
27 Title shall require any corporation to qualify to do
28 business in Guam, or subject any person, firm, corpor-
29 ation, or trust to taxation under any law of Guam if,
30 but for the enactment of this Title, the person, firm,
31 corporation, or trust would not have been required so
32 to qualify or be subject to such taxation."

1

Section 2. This Act shall take effect sixty (60) days

2

after its enactment.

21

In all respects to the same, Chapter 1, Article 10