

THE THIRTIETH LEGISLATURE OF AMERICAN SAMOA

Fourth Regular Session

Begun and held at Fagatogo, Tutuila, American Samoa
on Monday, the fourteenth day of July
two thousand and eight

AN ACT ESTABLISHING AN ECONOMIC DEVELOPMENT FUND ADMINISTERED BY THE DEVELOPMENT BANK OF AMERICAN SAMOA; DESIGNATING THE EXCESS REVENUES OF THE INCOME TAX RESERVE ACCOUNT AS ITS FUNDING SOURCE; AMENDING SECTION 11.0407 A.S.C.A.; CREATING A NEW SECTION 28.0108 A.S.C.A.; AND RENUMBERING SECTIONS 28.0108, 28.0109, 28.0110 AND 28.0111 A.S.C.A.

BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:

Section 1. 11.0407 is amended to read:

“11.0407 Income tax reserve account.

(a) The Treasurer of American Samoa shall establish an “Income Tax Reserve Account” promptly upon the enactment of the Samoan Income Tax Act and shall deposit in such account 25% of all corporate income taxes, as and when collected, unless at the time of collection the reserve account has a net balance of not less than \$ 1,000,000. Upon meeting the requirements of this section for the funding of the Income Tax Reserve Account, the funds thereafter collected by the Treasurer shall then be deposited in the Economic Development Fund, to be remitted to the Development Bank of American Samoa as set forth in section 28.0108.

(b) The reserve account shall constitute a trust fund out of which refunds and other adjustments shall be made in favor of any corporation subject to the Samoan Income Tax Act.

(c) The money in the reserve account shall remain in a segregated status unless the Legislature of American Samoa authorizes its use for other purposes and provides for reimbursement of the account as and when needed.

(d) The Reserve Account shall be reimbursed by continued collection and set aside of 25% of all income taxes designated in paragraph (a) above, which set aside shall continue until the net balance of the Reserve Account reaches the amount and level established in said paragraph (a).”

Sec 2. There is created a new section 28.0108 in Title 28 A.S.C.A. which reads:

“28.0108 Economic development fund.

(a) For the purpose of providing a source of capital to assist the bank in meeting its purpose of promoting private enterprise, developing the economy, and benefiting the public, there is created an Economic Development Fund (the “Fund”) in the amount of \$10,000,000. The Fund shall be utilized for the purposes set forth in section 28.0105 and investments made from the Fund shall be made in compliance with the management procedures and standards set forth in said section.

(b) Upon satisfying the reserve amount required for the Income Reserve Account under Section 11.0407, the Treasurer of American Samoa shall deposit into the Economic Development Fund the proceeds from twenty five percent (25%) of all corporate income taxes until the Economic Development Fund is fully funded. Such funds shall be remitted to the Development Bank of American Samoa at the end of each calendar quarter each year. All income from investments from the Fund shall be credited to the account of the Fund and shall be available for re-investment.”

Sec 3. 28.0108 is renumbered to read:

“28.010809 Assets and liabilities existing upon enactment of this chapter.

All assets and liabilities of the Bank existing at the time of the enactment of this chapter inure to the benefit of and are binding upon the Bank created by this chapter.”

Sec 4. 28.0109 is renumbered to read:

“28.010910 Loans to aliens.

A loan shall be made only if the manager of the Bank believes that there are reasonable prospects for its repayment. Prior to making a loan to an alien who entered American Samoa after 1955, the manager of the Bank shall consult with the immigration officer to determine the status of residency of the alien.”

Sec 5. 28.0110 is renumbered to read:

“28.011011 Malfeasance of director.

(a) Any Director who, under color of his office, violates any law or knowingly or negligently permits any officer, agent, or employee of the Bank to violate any law, or any provision of the Bank’s charter or bylaws, shall be subject to removal from the board.

(b) Any American Samoan who has reasonable grounds to believe that a Director is subject to removal under this section may petition the High Court of American Samoa for removal of the Director. If the court finds that the respondent Director is subject to removal under this section, the court shall

order his removal and provide for such other relief as the court deems just and appropriate.”

Sec 6. 28.0111 is renumbered to read:

“~~28.0111~~12 Larceny and fraud-Penalty.

Any director, officer, employee, or agent of the Bank who, with the intent to injure or defraud the Bank or any other person, embezzles, steals, or misapplies any moneys, funds, credits, or securities; makes any false entry in a book, report, or record; or performs any other fraudulent act; and any person who, with like intent, aids or abets any director, officer, employee or agent in any of the acts described in this section shall be fined not more than \$3,000, or imprisoned for not more than 5 years, or both.”

Lolo M. Moliga

LOLO M. MOLIGA
President of the Senate

Savali Talavou Ale

SAVALI TALAVOU ALE
Speaker, House of Representatives

Hereby Approved this 26th day of Oct. 20 08
[Signature]
Governor Of American Samoa

NOFOAIGA TOLUSEFULU FONOFAITULAFONO A AMERIKA SAMOA

Fono Tele Lona Fa

Nofioia ma usuia i Fagatogo, Tutuila, Amerika Samoa
Aso Gafua, aso sefulufa o Iulai
lua afe ma le valu

O SE TULAFONO E FA'AVAE AI SE TEUGATUPE ATIINA'E TAU LE TAMAOAIGA E PULEA E LE FALETUPE ATIINA'E A AMERIKA SAMOA; FA'ASINO MA'OTI TUPE SILIA O LE TEUGATUPE FA'ALEOLEO O LAFOGA O TUPEMAUA E AVEA MA ANA ALAGATUPE O FA'ATUPEGA; SUIA AI LE MAGA 11.0407 T.T.A.S.; FA'AVAE AI SE MAGA FOU 28.0108 T.T.A.S; MA TOEFA'ANUMERA MAGA 28.0108, 28.0109, 28.0110 MA LE 28.0111.

IA FA'ATULAFONOINA E LE FONOFAITULAFONO A AMERIKA SAMOA:

Maga 1. 11.0407 ua suia e faitauina:

“11.0407 Teugatupe fa’aleoleo o lafoga o tupemaua.

(a) O le Teutupe a le Malo o Amerika Samoa o le a fa’avaeina vave se “Teugatupe Fa’aleoleo o Lafoga o Tupemaua pe a fa’atulafonoina le Tulafono o Lafoga Tagata Samoa ma ia teu i lena teugatupe le 25% o lafoga o tupemaua a Koporesi uma pe afai e aoina, vagana ai i le taimi e aoina ai o le teugatupe o lo’o iai se paleni e sa’oloto mai aitalafu e le itiiti nai le \$1,000,000. Pe afai e ausia aiaiga o lenei maga mo le fa’atupega o le Teugatupe Fa’aleoleo o Lafoga o Tupemaua, o tupe e aoina mulimuli ane e le Teutupe ia teuina i le Teugatupe Atiina’e tau le Tamaoaiga, e tu’uina atu i le Faletupe Atiina’e a Amerika Samoa e pei ona fa’atulagaina i le Maga 28.0108.

(e) O le teugatupe fa’aleoleo o le a aofia ai se teugatupe fa’atuatua ma e mai lea teugatupe o tupe toe fa’afo’i ma isi fetu’una’iga o le a fa’amatu’u mai ai e lagolago ai so’o se koporesi e fa’amaonia i le Tulafono o Lafoga o Tupemua a Tagata Samoa.

(i) O le tupe i le teugatupe fa’aleoleo e fa’atumauina pea i le tulaga tu’u mavaevae vagana ai ua fa’atagaina e le Fono Faitulafono a Amerika Samoa lona fa’aaogaina mo isi fa’amoemoega ma saunia mo le toetotogia o le teugatupe e pei ona aiaia ma pe afai e mana’omia.

(o) O le Teugatupe Fa’aleoleo o le a toetotogia e ala i le aoina ma tu’u’ese le 25% o lafoga uma o tupemaua ua fa’apatino mai i le parakalafa (a) i

luga, e tu'u ese ai ma fa'aaauau pea se'ia o'o ina maua le paleni autu o le Teugatupe Fa'aleoleo o le aofa'iga ma le tulaga ua fa'avaeina i lena parakalafa (a)."

Maga 2. Ua fa'avaeina se maga fou 28.0108 i le Ulutala 28 T.T.A.S. e faitauina:

"28.0108 Teugatupe atiina'e tau le tamaoaiga.

(a) Mo le fa'amoemoega e saunia ai se alagatupe o oloa fa'aputupu e fesoasoani i le faletupe e ausia òna fa'amoemoega o le lagolagoina o pisinisi tua, atiina'e le tamaoaiga, ma fa'amanuia ai tagata lautele, ua fa'avaeina ai se Teugatupe Atiina'e tau le Tamaoaiga (o le Teugatupe) i le aofa'iga e \$10,000,000. O lea teugatupe o le a fa'aaogaina mo fa'amoemoega ua fa'atulagaina i le maga 28.0105 ma o fa'atupe-galue e faia mai le teugatupe ma o le a faia ia ogatasi ma tualumaga ma ta'iala o le pule'aga ua fa'atulagaina i lena maga.

(e) Pe a fa'amalieina le aofa'iga fa'aleoleo ua mana'omia fa'atonuina mo le Teugatupe Fa'aleoleo o Tupemaua i lalo o le Maga 11.0407, o le Teutupe a Amerika Samoa o le a teuina i totonu o le Teugatupe Atiina'e tau le Tamaoaiga tupe mai le luasefulu lima pasene (25%) o lafoga o tupemaua a koporesi o lafoga a isi fa'alapotopotoga tau pisinisi se'ia o'o ina fa'atupeina atoatoa le Teugatupe Atiina'e tau le Tamaoaiga. O na tupe e tatau ona tu'uina atu i le Faletupe Atiina'e a Amerika Samoa i le fa'ai'uga o kuata fa'alekalena ta'itasi o tausaga ta'itasi. O tupemaua uma mai tupegalue mai le Teugatupe e tuuina atu i le aofa'iga o le Teugatupe ma ia fa'aavanoaina mo le toe fa'atupegalueina."

Maga 3 28.0108 ua toefa'anumeraina e faitauina:

"28.010809 Meatotino ma fatuaiga o iai ina ua fa'atulafonoina lenei mata'upu.

O meatotino ma fatuaiga uma a le Faletupe sa iai i le taimi o le fa'atulafonoina o lenei mata'upu e fa'atupula'ia mo le manuia o ma fa'ae'eina atu i le Faletupe ua fa'avaeina e lenei mata'upu."

Maga 4. 28.0109 ua toefa'anumeraina e faitauina:

"28.010910 Nogatupe i tagata mai fafo.

E mafai ona faia se nogatupe pe afai e talitonuina e le pule o le Faletupe e iai ni to'omaga tau tupe mo le toetotogiga o le nogatupe. Ae le'i faia se nogatupe i se tagata mai fafo o se sa ulufale mai i Amerika Samoa ina ua mavae le tausaga 1955, e tatau i le pule o le faletupe ona feutaga'i ma le ali'i-ofisa fa'aa'o o femalaga'iga e iloa ai le tulaga o le nofomau o lea tagata mai fafo."

Maga 5. 28.0110 ua toefa'anumeraina

"28.010910 Mea sesē a fa'atonu

(a) So'o se fa'atonu o se, i lalo o le fa'atosinaga a lona tofi, ua soli so'o se tulafono po'o le fa'atagaina ma le iloa po'o le fa'atamala fa'ataga so'o se ali'i/tama'ita'i-ofisa, sui, po'o tagatafaigaluega o le Faletupe e soli so'o se

tulafono, po'o so'o se aiaiga o le feagaiga tusitusia po'o tulafono fa'afoe, o le a a'afia i le fa'atula'i'ese mai le komiti.

(e) So'o se tagata Amerika Samoa e iai ni mafua'aga talafeagai e talitonuina e tatau ai ona fa'atula'i'ese le Ffa'atonu i lalo o lenei maga e mafai ona talosagaina le Fa'amasinoga Sili o Amerika Samoa mo le fa'atula'ieseina o le Ffa'atonu. Afai e fa'amaonia e le fa'amasinoga o le Ffa'atonu ua molia ua fa'amaonia e tatau ona fa'atula'iese i lalo o lenei maga, o le a poloaina e le fa'amasinoga lona fa'atula'iese ma saunia mo isi fa'aagafuaga e manatu le fa'amasinoga e tonu ma talafeagai."

Maga 6. 28.0111 ua toefa'anumeraina e faitauina:

"28.0111 O le ave'esea o meatotino ma le Taufasaese—Fa'asalaga.

So'o se fa'atonu, ali'i/tama'ita'i-ofisa, tagatafaigaluega po'o se sui o le Faletupe o se, ma le mafaufau iai e fa'amanu'alia pe taufa'ase le Faletupe po'o so'o se isi tagata, fa'aaoga se meatotino ua tu'uina atu i lana va'ava'aiga, gaoi, po'o le fa'aaoga ma le le tonu so'o se tupe, teugatupe, fa'aputuga tupe, po'o tupe fa'aleoleo; faia o so'o se fa'amaumauga le tonu i se tusi, ripoti, po'o fa'amaumauga; po'o le fa'atinoina o so'o se gaoioiga taufa'ase; ma o so'o se tagata o se, o iai se fa'amoemoega fa'apea, fesoasoani pe fesoasoani i so'o se fa'atonu, ali'i/tama'ita'i-ofisa, tagatafaigaluega po'o se sui i so'o se gaoioiga ua fa'amatalatalaina i lenei maga o le a fa'asalatupe e le sili atu ma le \$3,000, pe falepuipui e le sili atu ma le 5 tausaga, po'o fa'asalaga uma e lua.

Lolo M. Moliga
LOLO M. MOLIGA
Peresetene, Maota Maualuga

Savali Talavou Ale
SAVALI TALAVOU ALE
Fofoga Fetalai, Maota o Sui

Hereby Approved this 26th day of Oct. 2008
[Signature]
Governor Of American Samoa