



THE NATIONAL INVESTMENT COMMISSION ACT OF
2010

AMENDING AND REPLACING
NATIONAL INVESTMENT COMMISSION LAW OF 1979

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PREAMBLE

Whereas a vibrant private sector supported by direct foreign investment is critical to the rapid economic recovery, reconstruction and development of Liberia;

Recognizing that the economic and social development objectives of the people of Liberia shall be best achieved by a favorable investment environment that will guarantee security and protection of lives and property and will manifest the Government of Liberia's commitment to policies and regulatory mechanisms necessary for promoting good governance, transparency, accountability and respect for the sanctity of contractual obligations;

NOW THEREFORE, IT IS HEREBY ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF LIBERIA, IN LEGISLATURE ASSEMBLED:

Section1: Short Title

This Act shall be known as the National Investment Commission Act of 2010

Section2: Definitions

In this Act unless the context otherwise requires-

2.1 **“Commission”** means the National Investment Commission (NIC);

- 2.2 **“Equity”** refers to an interest (including a beneficial interest) in an enterprise entitling the holder thereof to participate in the income and profits of such enterprise;
- 2.3 **“Government”** means the Government of the Republic of Liberia;
- 2.4 **“Incentives”** include fiscal benefits, facilities, entitlements and exemptions conferred on an enterprise to which this Act applies for the purpose of promoting the economic growth and development o Liberia;
- 2.5 **“Investment”** includes direct and indirect investments and portfolio investments;
- 2.6 **“Person”** mans a natural person or a juridical person;
- 2.7 **“Portfolio Investment”** means an investment in shares, bonds or other securities in Liberia; and
- 2.8 **“State”** means the Republic of Liberia.

Section 3: The National Investment Commission

- 3.1 The National Investment Commission Act of 1979, is hereby repealed,
- 3.2 Notwithstanding the repeal of the National Investment Commission Act of 1979, the Commission and the Secretariat created by the said Act are hereby preserved and shall remain in existence subject to the provisions of this Act; the provisions in this National Investment Commission Act of 2010 shall be substituted as chapter 55 of the Executive Law.

Section 4: Structure and Personnel of the National Investment Commission

- 4.1 The National Investment Commission (the “Commission”) shall comprise the Chairman of the National Investment Commission, the Minister of Finance, the Minister of Planning, the Minister of Justice, the Minister of Commerce, the Minister of State for Economic Affairs in the office of the President and one other professional person from the private sector who shall be appointed by the president. Cabinet members serving on the commission shall not receive remuneration for their work on the commission.
- 4.2 The Chairman of the Commission shall be the Chief Executive Officer of the National Investment Commission and shall have rank of a Cabinet Minister. The Chairman and Executive Officer shall be subject to such qualification and appointment criteria and requirements as apply to Cabinet Ministers.
- 4.3 The National Investment Commission shall have a Secretariat, headed by an Executive Director who shall be appointed by the president and who shall serve as the principal deputy to the Chairman. The Secretariat shall be organized, in such manner and with such personnel as shall be determined by the Commission.
- 4.4 The Secretariat shall serve as the administrative and operational arm of the Commission. This shall include but not limited to: the receipt and analysis of investment incentives requests and the holding and coordination of inter-ministerial technical committee along the relevant line ministries and agencies for the vetting of said investment incentive proposals.

Section 5: Functions of the National Investment Commission

- 5.1 The functions of the National Investment Commission shall include the following:
 - a) To encourage, promote and assist in the development of foreign direct investment in all sectors of the economy of Liberia other than those sectors in which foreign direct investments is prohibited by Law.
 - b) To oversee implementation of this Act and the Investment Act of 2010; The National Investment Commission Act of 2010.

- c) In collaboration with the Ministry of Commerce and Industry and other relevant Government of Liberia Institutions, encourage and foster support for domestic entrepreneurs; and,
- d) To participate in the evaluation and award of concession or other development rights with respect to assets of the Republic to the extent from time mandated by other laws, and in any case to assist or, where authorized by law, to lead Ministers in the review and evaluation and award to investors of concessions and other development rights with respect to assets of the state.

5.2 In furtherance of such purposes, the Commission shall have and exercise in accordance with section 5.1, the following powers:

- a) To enter into, perform and modify contracts, leases, agreements or other transactions with any natural person or enterprise in the name of the Commission and/or the Government where duly authorized by law or Executive Instrument;
- b) To appoint consultants and attorneys;
- c) To establish such agencies or branch offices within or without Liberia as Government may authorize;
- d) To participate in the evaluation and award of concession or other development rights with respect to assets of the Republic to the extent from time to time mandated by other laws, and in any case to assist or, where authorized by law, to lead Ministries in the review and evaluation and award to investors of concessions and other development rights with respect to assets of the State.

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- b) To appoint consultants and attorneys;
- c) To establish such agencies or branch offices within or without of Liberia as the Government may authorize;
- d) To collect, collate, analyze and efficiently disseminate information about the economy, investment opportunities, the investment climate, sector-relevant operational environments, sources of investment capital and incentives available to investors;
- e) To be a means through which Government equity participation in business development enterprises may be held and financed;
- f) To identify specific projects and prepare projects profile on Investments and joint venture opportunities in Liberia and invite interested Investors for participation in such projects;
- g) To initiate, organize and develop image-building activities to promote Liberia as an ideal investment destination including exhibitions, conferences and seminars;
- h) To provide advice to the Government on Investment policy in general and, where appropriate, focus on economic sectors to encourage Investment;
- i) To facilitate the training of Liberian nationals to meet the demands for foreign-invested businesses;
- j) To advice and assist prospective investors on actions and processes required to invest in Liberia, including assistance in complying with governmental rules and regulations
- k) To advice and assist prospective domestic and foreign investors on possible sources of securing business financing;

- l) To make such reasonable charges for advisory services rendered as the Commission may approve, provided such charges are such that they do not materially limit the willingness of prospective investors to seek the assistance of the Commission; and
- m) To adopt by-laws, rules and regulations governing the operation of and the provision of services by the Commission and the Secretariat, to the extent not in conflict with this Act or other applicable law.

Section 6: Financial Accounting

- 6.1 The national Investment Commission shall have the same fiscal year as the Government of Liberia
- 6.2 All revenues of the Commission shall be required to be paid into, or shall be transferred on receipt to, the general account of the Government maintained under control of the Ministry of Finance in accordance with the public finance management laws of the Republic. The Commission shall participate in the budget preparation and appropriations allocation process of the Government in accordance with the budgeting and public finance management laws and regulations of the Government of Liberia.
- 6.3 The National Investment Commission shall:**
 - a) Keep proper books of accounts and proper records in such form as public finance management laws may direct;
 - b) In every respect comply with such laws as exist for public finance management and procurement for statutory corporations and Government Ministries; and
 - c) Within three (3) months of the end of every financial year, produce and publish a report on its activities during the financial year. The Commission shall also provide such additional reports as the president may request or as the Commission may deem appropriate.

6.4 The accounts of the Commission shall be subject to an annual audit by an independent external auditor appointed by the Commission with the consent of the General Auditing Commission. Such audit shall occur within such period after the end of each fiscal year as shall be specified by the General Auditing Commission.

Section 7: Code of Conduct

7.1 All information furnished to the Commission and directly related to an investment proposal shall be absolutely confidential and shall, subject to public disclosure requirements of Government, not be disclosed by the Commission or the Secretariat.

7.2 It is unlawful for any member of the Commission or officer or employee of the Secretariat to accept compensation from an investor or potential investor for his or her personal benefit or to suggest or arrange for compensation for the benefit of a related person in connection with the performance by the Commission or its Secretariat of their functions, and any individual who does so shall be subject to such lawful sanctions as shall be recommended by the Ministry of Justice or the Anti-Corruption Commission for prosecution under law.

7.3 Any member of the Commission or officer or employee of the Secretariat who has, or who has related person who has, an economic interest in any matter as to which the Commission by law participates in the decision or as to which the Commission by law or practice has an advisory role must promptly make such interest known to the Chairperson of the Commission and the Executive Director of the Secretariat and must refuse himself or herself from participation in such matter.

Section 8: Transitional Provision

- 8.1 Notwithstanding the repeal of the Investment Incentives Act of 1973, any incentives agreement executed under it shall remain in force subject to the transitional rules enacted under the Liberia Revenue Code of 2000 as amended.
- 8.2 Any application pending before the National Investment Commission upon the entry into effect of this Act shall be deemed to be pending under this Act and shall, if eligible, receive incentives available under the Liberia Revenue Code of 2000 as amended or any other applicable law.
- 8.3 The mention of particular matters in this section shall be without prejudice to the general application of the provisions of laws governing the interpretation of statutes, which relate to the effect of repeals.

Section 9: Entry into Force

This Act shall come into force upon its passage by the House of Representatives and House of Senate and immediately upon publication in handbills.

ANY LAW TO THE CONTRARY NOT WITHSTANDING

FIFTH SECTION OF THE FIFTY-SECOND LEGISLATURE OF THE REPUBLIC OF LIBERIA

HOUSE'S ENGROSSED BILL NO. ENTITLED:

" THE NATINAL INVESTMENT COMMISSION ACT OF 2010 AMENDING AND REPLACING THE NATIONAL INVESTMENT COMMISSION LAW OF 1979"

On motion, Bill read. On motion, the Bill was adopted on its first reading on Tuesday, March 30, 2010 @ 13:05 GMT.

On motion, under the suspension of the rule, the first reading of the Bill constituted its second and third reading and the Bill was adopted, passed into the full force of law, and ordered engrossed today, Tuesday, March 30, 2010 @ 13:35 GMT.

FIFTH SESSION OF THE FIFTY-SECOND LEGISLATURE OF THE REPUBLIC

SENATE'S ENDORSEMENT TO HOUSE'S ENGROSSED BILL NO.1 ENTITLED:

"THE NATIONAL INVESTMENT COMMISSION ACT OF 2010 AMENDING AND REPLACING THE NATIONAL INVESTMENT COMMISSION LAW OF 1979"

On motion, Bill read. On motion, the Bill was adopted on its first reading and sent to Committee Room on Thursday, April 1, 2010 @ 13:20 GMT.

On motion, Bill taken from Committee Room for its second reading. On motion, under the suspension of the rule, the second reading of the Bill constituted the third reading and the Bill was adopted, ordered engrossed, and passed into the full of the law today, Thursday, April 1, 2010 @ 13:55 GMT.