*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*
**2011 (FIRST) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN***

This is to certify that **Bill No. 343-31 (COR), "AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 50 OF DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM FILM OFFICE",** was on the 22nd day of December, 2011, duly and regularly passed.

**Judith T. Won Pat, Ed.D.**
**Speaker**

Attested:

**Tina Rose Muña Barnes**
**Legislative Secretary**

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This Act was received by *I Maga'lahen Guåhan* this 23rd day of Dec., 2011, at 10:35 o'clock A.M.

Assistant Staff Officer
*Maga'lahi's* Office

APPROVED:

EDWARD J.B. CALVO
*I Maga'lahen Guåhan*

Date: _____

Public Law No. _____

*I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN*
**2011 (FIRST) Regular Session**

**Bill No. 343-31 (COR)**
As amended on the Floor.

Introduced by: T. R. Muña Barnes
v. c. pangelinan
Judith T. Won Pat, Ed.D.
T. C. Ada
V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
Adolpho B. Palacios, Sr.
R. J. Respicio
Dennis G. Rodriguez, Jr.
M. Silva Taijeron
Aline A.Yamashita, Ph.D.

**AN ACT TO *ADD* A NEW ARTICLE 4 TO CHAPTER 50 OF DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO CREATING THE GUAM FILM OFFICE.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1.** A new Article 4 is hereby *added* to Chapter 50 of Division 2 of Title 12, Guam Code Annotated, to read:

"**Article 4**

**Guam Film Office**

§ 50401. Definitions.

§ 50402. Guam Film Office.
§ 50403. Rules and Regulations.
§ 50404. Powers and Duties.
§ 50405. Guam Film Office Fund.
§ 50406. Permits Required.
§ 50407. General Exemptions.
§ 50408. Local Production Companies Exempt.
§ 50409. Applicants and Issuance.
§ 50410. Indemnification of Government Against Liability.
§ 50411. Insurance and Bonding Required.
§ 50412. Effective Date.
§ 50413. Severability.

**§ 50401. Definitions.**

(a) Administrator means the administrator of the Guam Film Office, who *shall* be the Administrator of the Guam Economic Development Authority or his/her designee.

(b) Charitable or student films *shall* mean commercials, motion pictures, television, videotapes, or still photography produced by a nonprofit organization that is registered with the Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization or is produced by students of an educational institution, and for which no person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.

(c) Commercial films *shall* mean and include all activity attendant to filming any entertainment or advertising programs for any

media now known or hereafter created.

(d) Filming/Production *shall* mean and include all activity attendant to staging or shooting commercial motion pictures, television shows or programs, and commercial still photography, video tapes, computer-based programs, or other visual reproduction technology now known or hereafter created. The period of filming includes the set-up, strike and time of photography.

(e) Government *shall* mean the government of Guam, its authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities.

(f) News Media *shall* mean the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by journalists, reporters, photographers or camera operators.

(g) Private Property *shall* mean any property *not* owned by the government of Guam on which filming would *not* interfere with public right of way, access or safety.

(h) Studio *shall* mean a fixed place of business where filming activities (motion or still photography) are regularly conducted upon the premises.

**§ 50402. Guam Film Office.**

There is hereby established within the Guam Economic Development Authority a Guam Film Office. The Administrator of the Guam Economic Development Authority *shall* be responsible for the administration of the

Guam Film Office.

**§ 50403. Rules and Regulations.**

(a) Rules and Regulations. The Administrator *shall* establish an advisory committee comprised of individuals and representatives of nongovernmental organizations that have substantial experience in the film, video and media fields in order to cause the promulgation of rules, regulations and fees to govern the form, time and location of filming activity set forth within Guam. The committee *shall* allow for the full participation of any member of the public during its deliberations. The rules and regulations *shall* also provide for the issuance of permits, notification of permit denial and a process of appeal. The rules, regulations, and fees *shall* be adopted in accordance with the Administrative Adjudication Act, Title 5 Guam Code Annotated, Chapter 9, within ninety (90) days upon the enactment of this Article. The rules and regulations *shall* be based upon the following criteria:

(1) the health and safety of all persons;

(2) avoidance of undue disruption of all persons within the affected area;

(3) the safety of property in Guam; and

(4) traffic congestion at particular locations in Guam

**§50404. Powers and Duties.** The Guam Film Office *shall* have the following powers and duties:

(a) To promote, encourage and advertise the use of Guam facilities and services for the production of films, videos, television programs, audio recordings, computer-generated and other media-related products.

(b) To provide support services to visiting and local production companies, including assistance to film, video and media producers in securing necessary permits or permissions from government of Guam authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities.

(c) To develop and update annually a resource guide of viable filming locations in Guam, available video and media production facilities, permitting requirements, and tax incentives.

(d) To work in coordination with the Guam Visitors Bureau to conduct and attend trade shows and production workshops to promote Guam to the national and international film industries.

(e) To promote and attract business activities in film, video, computer-generated and other media production activity in Guam, and take any other administrative action which may improve Guam's film, video and media production industries in national and international markets.

(f) To accept any funds, gifts, donations, bequests or grants of funds from private, federal, and public sources for the purpose of this Act.

(g) To create a "one stop permitting" process by formulating and proposing rules and regulations for standardized permits which *shall* be used by the government of Guam, its authorized agents, officers, representatives and employees of departments, agencies, autonomous agencies, offices or instrumentalities, to include any requirements set forth in this Act.

**§ 50405. Guam Film Office Fund.** There is established a fund to be known as the Guam Film Office Fund, which *shall* be administered by the Guam Economic Development Authority Guam Film Office, and be

maintained separate and apart from any other funds of the government of Guam, including the General Fund of the government of Guam. Independent records and accounts *shall* be maintained in connection therewith. Funds of the Guam Film Office Fund *shall* be used exclusively for the administration and operations of the Guam Film Office. All funds collected from fees, charges or fines levied pursuant to this Chapter *shall* be deposited into the Guam Film Office Fund, and all interest earned by the Guam Film Office Fund *shall* accrue. Any unencumbered funds remaining in the Guam Film Office Fund at the end of each fiscal year *shall* remain in that Fund. The Guam Film Office Fund *shall* be subject to audits by the Office of Public Accountability.

**§ 50406. Permits Required.**

(a) Permit Required. No person shall use any government street, alley, sidewalk, park, pier, way or other public property owned or controlled by the government of Guam for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee, provided, that the provisions of this Chapter *shall not* apply to or be construed to affect (1) news media; and (2) filming solely for private-family use.

(b) No person shall use any private property for the purpose of making commercial films without first applying for and receiving a permit from the Guam Film Office Administrator or his/her designee. Notwithstanding the foregoing, the provisions of this Chapter *shall not* apply to or be construed to affect the following filming on private property:

(1) filming which requires *no* parking variances and uses *no* public property or rights of way on public property;

(2) filming which *does not* impair the quiet enjoyment of the surrounding properties;

(3) filming which *does not* involve the use of any pyrotechnic devices;

(4) a licensed business which regularly employs a licensed pyrotechnic operator;

(5) filming by news media;

(6) filming solely for private-family use; *or*

(7) filming which *does not* interfere with the public's use of government property.

(c) *Except* as provided herein, each applicant must comply with all local and federal laws and regulations, and must obtain all necessary permits and licenses as a precondition for the commencement of commercial film production hereunder. Thereafter, the permittee *shall* remain in full compliance with all local and federal laws, regulations, permits and licenses throughout the filming.

(d) Upon reasonable notice by the applicant, the Administrator, or his/her designee, is authorized, upon showing of good cause, to change the conditions under which a permit has been issued, provided that the requirements of this Chapter are met and the government of Guam department, agency, autonomous agency, office or instrumentality can undertake all necessary administrative review within the time requested.

**§ 50407. General Exemptions.** The provisions of this Article *shall not* apply to *or* affect:

(a) News Media. Reporters, photographers or cameramen in the employ of a newspaper, news service, or similar entity, engaged in the on-

the-spot broadcasting of news events concerning those persons, scenes or occurrences which are in the news and of general public interest, including sporting events.

(b) Private/Family Use. The filming or video taping of motion pictures solely for private/family use.

(c) Charitable Films and Student Films. Projects produced by a nonprofit organization that is registered with the Department of Revenue and Taxation or the Internal Revenue Service as a charitable organization or produced by a student(s) of an educational institution.

(d) Small Crews. If the crew *does not* exceed five (5) persons and there is *no* extensive use of props, equipment, cast or other participants, the small crew *shall* be exempt if the following conditions are met:

(1) The crew is filming a parade, demonstration or other special event, and has obtained all permission that may be required. The exemption *shall* allow them to operate on the same basis as a citizen with a camera; or

(2) Pedestrian and vehicular traffic is *not* altered; and

(3) No special parking provisions are included; and

(4) No stunt work is performed; and

(5) Permission is obtained from controlling authorities to use government of Guam property, other than sidewalks and streets; and

(6) Permission is obtained from owners to use private property where applicable.

**§ 50408. Local Production Companies Exempt.** In addition to the General Exemptions authorized in §50407 of this Act, the provisions of

this Article and the rules, regulations, and requirements authorized herein *shall not* apply to or affect local production companies if:

(a) The production company was incorporated in Guam.

(b) Principal owner(s) is a resident of Guam and has filed individual tax returns in Guam for a period of at least three (3) years.

(c) The production company maintains its headquarters in Guam.

(d) The production company is licensed to do business in Guam.

(e) The daily operations of the production company are managed by a resident of Guam.

**§ 50409. Applicants and Issuance.**

(a) Issuing Authority. The issuing authority *shall* be the Guam Film Office Administrator.

(b) Applications. Each application for filming under this Chapter must be completed in full and filed with the Administrator, or his/her designee

(c) The permit application *shall* be in a form the Administrator, or his/her designee, may reasonably require. In lieu of the foregoing, the applicant may submit the permit application on the form adopted and in use by the Guam Film Office.

(d) The Administrator, or his/her designee, may refer the application to such appropriate government department, agency, autonomous agency, office or instrumentality as are directly impacted by the application, and as he/she deems necessary from the nature of the application for review, evaluation, investigation and

recommendations by the department, agency, autonomous agency, office or instrumentality regarding approval or disapproval of the application.

(e) The Administrator, or his/her designee, *shall* issue a permit under this Chapter if it is determined that the following criteria have been met:

(1) the proposed use will *not* unreasonably interfere with or endanger the public peace or rights of nearby residents to the quiet, peaceable enjoyment of their property, or otherwise be detrimental to the public peace, health, safety or general welfare;

(2) the proposed use will *not* unduly impede, obstruct or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the government's ability to perform municipal functions or furnish government services in the vicinity of the permitted area; and

(3) the proposed use will *not* constitute a fire or safety hazard and all proper safety precautions will be taken as is reasonably necessary to protect the public peace, health, safety or general welfare.

(f) The Administrator, or his/her designee, *shall* deny the permit if the conditions of this Chapter and all applicable laws and regulations have *not* been met or if the application contains incomplete or false information. No permit shall be denied without a clear written explanation of the reasons compelling a denial and the process by which said denial may be appealed.

(g) The Administrator, or his/her designee, may immediately revoke or suspend a permit which has been granted, if the conditions of this Chapter and all applicable laws and regulations are no longer being met, if the information supplied by the applicant becomes, or is determined to be, false or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety or general welfare.

(h) The Guam Economic Development Authority Compliance and Audit Department *shall* conduct production site inspections, monitoring, and enforcement of this Act.

(i) Reimbursement for Personnel. The production company *shall* reimburse the relevant government of Guam agency for any personnel provided to the company (i.e. police, fire, traffic control, medical personnel) for the purpose of assisting the production. Any cost *shall* be negotiated, and approved, prior to the shoot date. A fee for issuance of the permit *shall* be set by the advisory committee.

**§ 50410. Indemnification of Government Against Liability.**

(a) Prior and as a condition precedent to the granting of a permit under this Chapter, each applicant *shall* agree to indemnify, defend and hold the government of Guam, its authorized agents, officers, representatives and employees harmless from and against any and all losses, damages, claims, causes of action, costs, liabilities, penalties, judgments and expenses, including without limitation, defense costs and reasonable legal fees, resulting from any and all claims or damage of any nature, including any accident, loss or damage to persons or property which the government may incur and which arise from or relate to any activity conducted by the

permittee or any of its agents, employees, representatives, contractors or consultants in connection with the rights granted in the permit or under this Chapter. The form of the indemnification agreement *shall* be as determined by the Attorney General of Guam.

**§ 50411. Insurance and Bonding Required.**

(a) Liability Insurance. As a condition of issuance of a permit hereunder, every permittee must procure and maintain in full force and effect during the term of the permit a policy (or policies) of insurance from an insurance company licensed to do business in Guam, naming the government of Guam, its officers, employees and agents as coinsured for protection against claims of third persons for any and all liability of permittee with respect to its obligations and liabilities under its permit and this Chapter and its indemnities, including, but *not* limited to, commercial general liability insurance on an "occurrence" basis against claims for personal injury, including death, bodily injury or property damage liability, and in an amount *no less than* One Million Dollars ($1,000,000.00), and which otherwise provides sufficient coverage that the Administrator, or his/her designee, determines to be necessary and adequate under the circumstances. The certificate of insurance *shall not* be subject to cancellation or modification until after thirty (30) days' written notice to the Guam Film Office. Prior to issuance of any permit, a copy of the certificate of insurance *shall* be provided to the Insurance Commissioner. A copy of the certificate will remain on permanent file.

(b) Worker's Compensation Insurance. An applicant *shall* conform to all applicable federal and local requirements for worker's compensation insurance for all persons operating under a permit.

(c) Hold Harmless Agreement. An applicant *shall* execute a hold harmless agreement as provided by the government of Guam and incorporated within the permit issued under this Chapter.

(d) Faithful Performance Bond. To ensure cleanup and restoration of any public property involved in the filming, the permittee may be required to post a refundable Faithful Performance Bond (amount to be determined by rules and regulations), cash surety or other comparable form of security guarantee at the time application is submitted. Upon completion of filming, cleanup and restoration, and a satisfactory inspection of the site by Guam Film Office Administrator, or his/her designee, the bond may be returned to applicant.

**§ 50412. Effective Date.** This Article *shall* be effective one hundred eighty (180) days after the date of enactment.

**§ 50413. Severability.** *If* any provision of this law or its application to any person or circumstances is found to be invalid or contrary to law, such invalidity *shall not* affect other provisions or applications of this law, which can be given effect without the invalid provisions or applications, and to this end the provisions of this law are severable."