FILE COPY

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 524-31 (COR), "AN ACT TO *AMEND* SUBSECTIONS (a) AND (b) OF §1512.3, AND TO *ADD* A NEW SUBPARAGRAPH (3) TO §1512.3(j), ALL OF ARTICLE 5, CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF BONDS AND OTHER OBLIGATIONS OF THE GOVERNMENT OF GUAM FOR THE SOLE PURPOSE OF REFUNDING PRIOR BONDS AND OTHER OBLIGATIONS TO ACHIEVE DEBT SERVICE SAVINGS",** was on the 14th day of December, 2012, duly and regularly passed.

Benjamin J.F. Cruz
Acting Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 17 day of Dec, 2012, at 11:40 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
2012 (SECOND) REGULAR SESSION

Bill No. 524-31 (COR)
As substituted by the Author, and amended on the Floor.

Introduced by:

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

AN ACT TO *AMEND* SUBSECTIONS (a) AND (b) OF §1512.3, AND TO *ADD* A NEW SUBPARAGRAPH (3) TO §1512.3(j), ALL OF ARTICLE 5, CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF BONDS AND OTHER OBLIGATIONS OF THE GOVERNMENT OF GUAM FOR THE SOLE PURPOSE OF REFUNDING PRIOR BONDS AND OTHER OBLIGATIONS TO ACHIEVE DEBT SERVICE SAVINGS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that on September 13, 2012, the Board of Governors of the Federal Reserve System released a statement stating that:

> "Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability. The Committee is concerned that, without further policy accommodation, economic growth might not be strong enough to generate sustained improvement in labor market conditions. Furthermore, strains in global financial markets continue to pose significant downside risks to the economic outlook.

The statement continued:

> "To support continued progress toward maximum employment and price stability, the Committee expects that a highly accommodative stance of monetary policy will remain appropriate for a considerable time after the economic recovery strengthens. In particular, the Committee also decided today to keep the target range for the federal funds rate at 0 to 1/4 percent and currently anticipates that exceptionally low levels for the federal funds rate are likely to be warranted at least through mid-2015."

I Liheslaturan Guåhan further finds that such a commitment by the Federal Reserve Board may positively affect government of Guam operations by allowing the government to refinance or restructure its debt.

It is, therefore, the intent of *I Liheslaturan Guåhan* to authorize the Guam Economic Development Authority (GEDA), within certain limitations, to arrange for the refinancing and/or restructuring of the government of Guam General Obligation Bonds, Series 1993 A.

Section 2. Authorization to Refinance and Restructure Existing Obligations. §1512.3(a) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby *amended* to read as follows:

"(a) **Authorization of Issuance of Bonds.** *I Maga'lahen Guåhan* is authorized to issue three (3) series of bonds of the government of Guam as provided in this Section, in an aggregate principal amount *not to exceed* Three Hundred Forty-Three Million Seven Hundred Thousand Dollars ($343,700,000) plus such principal amount as may be necessary for the purposes of the refunding of Government of Guam General Obligation Bonds, 1993 Series A, as provided in and subject to the conditions of Paragraph (2)(B)(iv) of this Subsection (a), to provide the following:

(1) For the first bond series, in the following order of priority:

(A) up to One Hundred Ninety-Eight Million Dollars ($198,000,000) for payment of unpaid income tax refunds plus interest to include for 2010 and prior;

(i) Set-aside for Tax Refunds for Humanitarian Purposes. Of the total amount of proceeds available to issue tax refund payments, the sum of Twenty Million Dollars ($20,000,000) *shall* be set aside and appropriated to the Department of Revenue and Taxation for the purpose of paying tax refunds for humanitarian purposes. The provisions of this Section *shall* supplement other guiding provisions of law regarding the processing of emergency tax refund payments. Requests submitted for the following humanitarian purposes *shall* qualify to be processed from this Twenty Million Dollars ($20,000,000) set-aside:

(aa) off-island medical treatment, inclusive of the need to purchase medication; or death of a family member, within two (2) degrees of consanguinity;

(bb) delinquent billing payments owed to the Guam Power Authority, the Guam Waterworks Authority, the Guam Housing and Urban Renewal Authority, and the Judiciary of Guam, which have become delinquent due to financial hardships;

(cc) delinquent loan payments owed to the Guam Housing and Urban Renewal Authority, which have become delinquent due to financial hardships; and

(dd) delinquent loan payments owed to legally qualified and licensed lenders, which have become delinquent due to financial hardships. For the purposes of this Section, a request for tax refunds *shall* be submitted by the taxpayer to the Director of Revenue and Taxation. All such requests are subject to the review and approval of the Director.

(ii) Twenty Million Dollars ($20,000,000) for the payment of cost of living allowance to certain retired government of Guam employees pursuant to the case known as *Rios v. Camacho;*

(iii) Twenty-Six Million Four Hundred Thousand Dollars ($26,400,000) for payments owed to the Government of Guam Retirement Fund for the Guam

Department of Education and the Guam Memorial Hospital Authority principal and interest pursuant to Public Law 28-38, as amended by Public Law 31-74; and

(iv) if no alternate source of funding is available, for the payment of health insurance premiums for Fiscal Year 2012.

(2) For the second bond series:

(A) *no less than* Twenty-Five Million One Hundred Thousand Dollars ($25,100,000) for payments owed to the Government of Guam Retirement Fund for the Guam Department of Education, the Guam Memorial Hospital Authority, and the *Health Insurance Bailout Agreement of FY2011* principal and interest pursuant to Public Law 28-38, as amended by Public Law 31-74, such that the sums owed to the GGRF by the government of Guam pursuant to Public Law 28-38, as amended, *shall* be extinguished in its entirety;

(B) the remaining balance of bond proceeds such that the debt to the GGRF identified in §1512.3(a)(2)(A) of Article 5, Chapter 1, Title 5, Guam Code Annotated is paid, *shall* be used, in any amount, for any of the following:

(i) the design, construction, re-construction, rehabilitation, maintenance, or renovation of government of Guam or Guam Department of Education-owned school facilities, and/or the procurement and preventive maintenance of school buses. A "School Facility" *shall* mean school campus facilities, including any structure or

structures, together with all ancillary facilities, including parking facilities, utilities, infrastructure and equipment associated with providing the educational or related services required by the Guam Department of Education and may include an existing school facility being rehabilitated; and/or

(ii) the payment of unpaid income tax refunds for tax year 2011; and/or

(iii) if no alternate source of funding is available, the payment of health insurance premiums for Fiscal Year 2012.

(3) For the third bond series, to fund an escrow to pay principal, interest and redemption price of Government of Guam General Obligation Bonds, 1993 Series A and to pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks *or* other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds; *provided, however,* that bonds may *not* be issued for this purpose unless (a) all obligation of the government to pay debt service on, and the redemption price of, the bonds being refunded *shall* be discharged concurrently with the issuance of the refunding bonds, (b) thereafter, the refunded bonds *shall* be payable solely from and secured solely by the escrow established for such purpose, (c) the present value of debt service on the refunding bonds *shall* be *at least* two percent (2%) less than the present value of debt service on the bonds being refunded,

inclusive of all fees, for bond counsel and bond underwriters and other cost of issuance, and (d) the issuance of the refunding bonds *shall not* result in any increase in the aggregate amount of the government's outstanding "public indebtedness" as that term is used in 48 USC 1423a (§11 of the Organic Act of Guam).

(4) For the first and second bond series, such amount as may be needed to capitalize and pay from bond proceeds interest on the bonds due, accruing or required to be set aside in Fiscal Years 2012 and 2013; and

(5) expenses incurred in connection with the issuance of such bonds *not* already included in an existing appropriation for or the regular budget of any government agency or instrumentality or public corporation providing any service in connection with the issuance of such bonds; *provided, however,* that bonds may *not* be issued in an amount that would cause a violation of the debt limitation provisions of 48 USC 1423a (§11 of the Organic Act of Guam).

(6) *I Maga'lahen Guåhan shall* utilize the 2011 Real Property Tax Assessment Roll as certified by the Board of Equalization in accordance with §24518 of Chapter 24, Title 11, Guam Code Annotated, in calculating the amount available for future debt obligation under the Debt Limit (Ceiling) for the bond issuance authorized in this §1512.3(a) of Article 5 of Chapter 1 of Title 5, Guam Code Annotated."

Section 3. Terms and Conditions of Bonds.

§ 1512.3(b) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby *amended* to read as follows:

"(b) Terms and Conditions Determined by Certificate *or* Indenture. The terms and conditions of the bonds *shall* be as approved by *I Liheslaturan Guåhan*, and as determined by *I Maga'lahen Guåhan* by the execution of a certificate *or* indenture authorizing the issuance of the bonds, prior to the issuance of the bonds; *provided, however*, that such terms and conditions *shall* be consistent with this Section, that the first and second series of the bonds *shall* mature *not later than* thirty-five (35) years after their date of issuance, *shall* bear interest at such rates and be sold for such price or prices as shall result in a yield to the bondholders that *does not exceed* six and one half percent (6.5%) per annum, *shall* require interest only payments for Fiscal Years 2012, 2013 and 2014 and *shall not* require bond principal payments until after such Fiscal Years, and that the third series of the bonds *shall* mature *not later than* December 31, 2018, and *shall* bear interest at such rates and be sold for such price *or* prices as shall result in the present value of debt service on the third series of the bonds being *at least* two percent (2%) less than the present value of debt service on the bonds being refunded, using the yield on the third series of the bonds as the discount rate."

Section 4. Authorization of Use of Proceeds for Refunding.

A new Subparagraph (3) is hereby *added* to § 1512.3(j) of Article 5, Chapter 1, Title 5, Guam Code Annotated, to read as follows:

"(3) The proceeds from the sale of the third bond series *shall* be used and are hereby appropriated to (i) fund an escrow to pay principal, interest and redemption price of Government of Guam General Obligation Bonds, 1993 Series A; and (ii) pay expenses relating to the authorization, sale and issuance of the bonds, including, without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial

advisory and accounting fees and charges, fees paid to banks *or* other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds."

Section 5. Appropriation of Reduction in Debt Service from the Refinancing and Restructuring of the General Obligation Bond Series 1993 A Bond. To the extent that there is a reduction in the annual debt service on the refunding bond as compared to the debt service on the prior bond for the fiscal years ending 2013 through 2019, then the resulting difference in debt service *shall* be appropriated to the following entities and purpose:

(a) One Million Four Hundred Seventy Thousand Dollars ($1,470,000) in Fiscal Year 2013 to the University of Guam to prevent tuition increases for the Spring 2013 and Summer 2013 semesters and One Million Four Hundred Seventy Thousand Dollars ($1,470,000) in Fiscal Year 2014 to the University of Guam to prevent tuition increases for the Fall 2013, Spring 2014, and Summer 2014 semesters;

(b) The remainder of the savings realized *shall* be equally distributed between the Mayors' Council of Guam to be utilized as matching funds for federal grants for capital improvement projects and the Tax Refund Reserve.

Section 6. Severability. If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.