I Mina'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
69-32 (COR)	T. C. Ada	AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.	3/18/13 12:21 p.m.	3/18/13	Committee on General Governmental Operations and Cultural Affairs	04/02/13	5/17/13 3:36 p.m.	**Fiscal Note Requested 3/19/13**
	DATE PASSED	**TITLE**	**TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY I MAGA'LAHEN GUAHAN**	**PUBLIC LAW NO.**	**NOTES**
	5/28/2013	AN ACT TO *ADD* A NEW §5351 TO ARTICLE 6 OF CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.	5/29/13	12:40 PM	6/8/13			As substituted by the Committee on General Government Operations and Cultural Affairs; and amended on the Floor.

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
THIRTY-SECOND GUAM LEGISLATURE
155 Hesler Place, Hagåtña, Guam 96910

May 28, 2013

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
***Hagåtña,* Guam 96910**

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Nos. 26-32(COR), 59-32(COR), 64-32(COR), 69-32(COR), 79-32(COR), 96-32(COR) and 105-32(COR) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on May 28, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (7)

OFFICE OF THE GOVERNOR
CENTRAL FILES
RECEIVED BY
TIME 12:40 DATE 5/29/13

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

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

This is to certify that **Substitute Bill No. 69-32 (COR), "AN ACT TO *ADD* A NEW §5351 TO ARTICLE 6 OF CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES",** was on the 28th day of May, 2013, duly and regularly passed.

Judith T. Won Pat, Ed.D.
Speaker

Attested:

Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 29 day of May, 2013, at 12:40 o'clock P.M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 69-32 (COR)
As substituted by the
Committee on General Government
Operations and Cultural Affairs;
and amended on the Floor.

Introduced by: T.C. Ada
B. J.F. Cruz
R. J. Respicio
V. Anthony Ada
Frank B. Aguon, Jr.
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
Vicente (ben) C. Pangelinan
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO *ADD* A NEW §5351 TO ARTICLE 6 OF CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there is no uniform standard relative to the duration of

commercial leases, permits or licenses for the use of government of Guam real property and other related facilities.

I Liheslaturan Guåhan finds that five years is a reasonable term limit for agencies to enter into commercial leasing, permitting or licensing for the use of government of Guam real property and other related facilities, but also recognizes that terms beyond five years may be warranted to allow time for the lessee, permittee, or licensee to make investments that may be needed to ensure the viability and success of a business plan, and to allow sufficient time to amortize these investments.

I Liheslaturan Guåhan further finds that public properties and facilities are assets owned by the people of Guam. It is important, therefore, that a standard for leasing government of Guam real property that will improve transparency and clarity in the leasing of public property, and to ensure that "exceptional term contracts" with terms greater than five years be required to be scrutinized by *I Liheslaturan Guåhan.*

Section 2. A new §5351 is hereby *added* to Article 6 of Chapter 5 of Title 5, Guam Code Annotated, to read:

"**§ 5351. Commercial Leasing of Public Real Property and Related Facilities.**

(a) **Public Real Property and Related Facilities.** From the effective date of this law, and notwithstanding any other provision of law, no commercial contract, lease, permit or license for use of public real property, and related facilities, shall be solicited, negotiated, entered into, or made for a term in excess of five years. This *shall* include any extensions, options and renewals. Any contract, lease, permit or license made, renewed or extended in violation of this law *shall* become void

upon the 5th anniversary of the making of such contract, lease, permit or license. This limitation *shall not* apply to residential and agricultural leases to beneficiaries under the *Chamorro* Land Trust.

(b) **Exceptional Term Contracts.** The Chief Procurement Officer, the Director of Public Works, or the head of a purchasing agency, as authority may exist therefore, may solicit a contract for a term longer than otherwise allowed by this Section (an "Exceptional Term Contract"). Prior to soliciting any Exceptional Term Contract, *I Maga'lahi* (the Governor) or, in the case of an autonomous agency, the Board of Directors, *shall* make a written Determination of Need justifying by a quantifiable sum an Exceptional Term Contract, and specifying the full term, inclusive of extensions, options and renewals, for such contract, and provide a copy of such Determination of Need to the Speaker of *I Liheslaturan Guåhan*. No Exceptional Term Contract shall be solicited *unless* a Determination of Need is obtained from *I Maga'lahi* (the Governor) or, in the case of an autonomous agency, the Board of Directors.

(c) Prior to transmitting a Determination of Need to the Speaker of *I Liheslaturan Guåhan,* a notice of solicitation *shall* be published as provided in § 5211(c) of Part B of Article 3 of this Chapter, such notice to conspicuously note the solicitation is for an Exceptional Term Contract, and specifying the term thereof, as well as the date of the proper Determination of Need. Any Exceptional Term Contract made in violation of this Subsection *shall* be void.

(d) **Legislative Approval Required for Exceptional Term Contracts.** Subsequent to satisfying the requirements of § 5351, the commercial contract, lease, permit or license for use of public real property and related facilities *shall* be transmitted to the Speaker of *I Liheslaturan Guåhan* for approval or disapproval, in whole. If *I Liheslaturan Guåhan* takes no action within 60 calendar days from the date of filing with the Speaker, the commercial contract, lease, permit or license *shall* be deemed approved by *I Liheslaturan Guåhan.* A public hearing *shall* be conducted by *I Liheslatura* (the Legislature) during the 60-day review period. Legislative approval *shall* be by enactment into law. Legislative disapproval *shall* be by Resolution."

Section 3. Severability. If any provision of this Act, or the application of any part of this Act to any person or circumstance, is held to be invalid as contrary to law, or unenforceable, such holding shall not affect any other provision hereof, nor any other application of this Act which can be given effect to any other person or in any other circumstance, and to this end the provisions of this Act are severable and the remainder shall be construed in such manner as to avoid invalidity or unenforceability.

Section 4. Effective Date. This Act *shall* become effective upon enactment, and *shall not* affect transactions that are currently in discussion pursuant to the issuance of an officially published Invitation-For-Bid (IFB) or Request-For-Proposal (RFP).

LEGISLATIVE SESSION

I MINA'TRENTAI DOS NA LIHESLATURAN

2013 (FIRST) Regular Session

Voting Sheet

Bill No: 69-32 (COR)
As substituted by the Committee on General Government Operations and Cultural Affairs and amended on the Floor.

Speaker Antonio R. Unipingco Legislative Session Hall

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA		✓			
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO		✓			
Senator Brant McCREADIE					✓ Ex.
Senator Thomas "Tommy" MORRISON		✓			
Senator Tina Rose MUÑA BARNES	✓	I			
Senator Vicente (ben) Cabrera PANGELINAN	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				
TOTAL	11	3			1
	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent

CERTIFIED TRUE AND CORRECT:

I = Pass

Clerk of the Legislature

May 28, 2013

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
Web Address: www.senatorbjcruz.com

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN
The 32nd Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

May 17, 2013

The Honorable Judith T. Won Pat
Speaker
I Mina' Trentai Dos Na Liheslaturan Guåhan
32nd Guam Legislature
155 Hesler Place
Hagåtña, Guam 96910

2013 MAY 17 PM 3:36

VIA: The Honorable Thomas Ada
Acting Chairperson, Committee on Rules

RE: Committee Report on Bill No. 69-32 (COR) as Substituted

Dear Speaker Won Pat:

Transmitted herewith is the Report of Committee on General Government Operations and Cultural Affairs on Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities. - as substituted

Committee votes are as follows:

8 TO DO PASS
___ TO NOT PASS
3 TO REPORT OUT ONLY
___ TO ABSTAIN
___ TO PLACE IN INACTIVE FILE

Sincerely,

BENJAMIN J.F. CRUZ
Chairperson

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
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COMMITTEE REPORT

ON

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities

- As Substituted

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
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May 17, 2013

MEMORANDUM

TO: **All Members**

FROM: **Vice Speaker Benjamin J.F. Cruz**
Committee on General Government Operations and Cultural Affairs

SUBJECT: **Committee Report on Bill No. 69-32 (COR)** as Substituted

Transmitted herewith for your consideration is the Committee Report on Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities. as Substituted

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Substitute Bill No. 69 (COR)
- Bill No. 69-32 (COR)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- COR Referral of Bill No. 69-32 (COR)
- Fiscal Note Requirement
- Notices of Public Hearing
- Public Hearing Agenda
- Related News Reports

Please take the appropriate action on the attached voting sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Very truly yours,

BENJAMIN J.F. CRUZ
Chairperson

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
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COMMITTEE VOTING SHEET

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities. as Substituted

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
CRUZ, BENJAMIN J.F. Chairperson		5/16/13				
MUÑA BARNES, TINA ROSE Vice-Chairperson		✓				
WON PAT, JUDITH T. Speaker and Ex-Officio Member						
ADA, THOMAS C. Member		4/17/13				
PANGELINAN, C. VICENTE Member		✓				
RESPICIO, RORY J. Member						
RODRIGUEZ, DENNIS G. JR. Member				5/17		
SAN NICOLAS, MICHAEL, F.Q. Member		5/16/13		✓		
AGUON, Jr., FRANK B. Member		5/13/13				
ADA, V. ANTHONY Member						
Morrison, Thomas Member		5/17/13				
McCreadie, Brant Member		5-17-13				
YAMASHITA, ALINE Member				5/17		

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
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Committee Report Digest

I. OVERVIEW

The Committee on General Government Operations and Cultural Affairs convened a public hearing on Tuesday, April 2nd, 2013 at 10:00 a.m. in the Public Hearing Room *of I Liheslatura*. Among the items on the agenda was the consideration was Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities.

Public Notice Requirements

All legal requirements for public notices were met, with requests for publication sent to all media and all Senators on March 25, 2013, and March 27, 2013 via email. Copies of the hearing notices are appended to the report.

Senators Present

Vice Speaker Benjamin J.F. Cruz
Senator Rory J. Respicio
Senator Vicente C. Pangelinan
Senator Michael F.Q. San Nicolas
Senator V. Anthony Ada
Senator Christopher M. Duenas
Senator Brant McCreadie
Senator Thomas Morrison

The public hearing was called to order at 10:05 a.m.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Vice Speaker Benjamin J.F Cruz announced Bill No. 69-32 (COR) then noted that the mains sponsor, Senator Thomas C. Ada, was not present. Senator Cruz stated that he would introduce Bill No. 69-32 (COR) on behalf of Senator Thomas Ada. Senator Cruz said that Bill No. 69-32 (COR) was introduced to provide some consistency in the government. Senator Cruz stated that there is no uniform standard relative to the duration of commercial leases, permits or licenses for the use of Government of Guam

real property and other related facilities.

Henry Taitano, Guam Economic Development Authority, read written testimony in opposition to Bill No. 69-32 (COR). Mr. Taitano stated that the intent of the legislation does not appear to state any clear positive value to the government of the community and that the findings of the bill are not consistent with the realities of developing real property. Mr. Taitano said that the additional layer of approval by the legislature creates seemingly unnecessary obstacles for development and that Bill No. 69-32 (COR) will likely have a negative impact on the value of governmental property.

Carlos Camacho, Micronesian Community Development Corporation, provided oral testimony in opposition to Bill No. 69-32 (COR). Mr. Camacho stated that private land is becoming more expensive and government land for affordable home development may exist in the future. Mr. Camacho stated that the financing requirements of the U.S. Department of Housing and Urban Development (HUD) are that the bank mortgage amount for multifamily rental housing is multiplied by one and a half times that amount for a ground lease. Mr. Camacho stated that the Guam Ancestral Lands Commission has been putting out multiple requests for proposals (RFP) to find the best use for their properties. Mr. Camacho stated that if Bill No. 69-32 (COR) becomes law it will impede their ability to bid on commercial development. Mr. Camacho stated that a board may disqualify a bid submission through a "determination of need."

Peter Sgro, resident of Guam, stated the Philippines are seeing a large investment growth and that the Federated States of Micronesia is seeing large growth in its captive insurance market. Mr. Sgro stated that numerous businesses are moving out of Silicon Valley because the cost of doing business is too high. Mr. Sgro stated that he is worried that Guam will not be able to complete with its close neighbors in similar markets because businesses are finding that it is cheaper to do business outside of Guam.

Ron McNinch, resident of Guam, stated that he was not testifying for or against Bill No. 69-32 (COR). Mr. McNinch stated that the bill is complex and technical; therefore, as much data for analysis should be used including an economist trained in land leases to determine the effect the proposal would have on leases, agencies and business on Guam.

Senator Cruz stated that for the information of the public Bill No. 69-32 (COR) the legislature had no problem approving the thirty year lease the Port Authority of Guam has with Cementon Micronesia. Senator Cruz stated that the problem is that the Port did not do their due diligence and did not realize

that pipes could not be run adjacent to gas pipes thereby halting operations due to concerns over parts of the properties lease agreement being under Mobile Guam. Senator Cruz stated that the legislature gave carte blanche to the A. B. Won Pat International Airport Authority and they took property given to them by the legislature and turned a few short leases into 60 year leases without input from the legislature. Senator Cruz said consequently Bill No. 69-32 (COR) is not a proposal that was written up without consideration of numerous facts and input. Senator Cruz stated that he is uncertain of how to assist regarding captive insurance because several businesses have their qualifying certificates but have done nothing with them except for not paying taxes.

Senator Pangelinan stated that the current statue says land leases are limited to five years, but that leases going to twenty years or beyond can occur with the approval of the legislature. Senator Pangelinan said that what he feels Senator Thomas Ada is attempting with Bill No. 69-32 (COR) is a bifurcation of leases so that a short term lease is limited to five years currently within the purview of departments and agencies, but if a lease is to go beyond that length then it would be done on the basis of a "determination of need." Senator Pangelinan stated that, for example, property may need to be leased out for the development of lost cost homes, but that development cannot survive on a five year lease; therefore, a RFP is issued for a short term or long term based on a "determination of need." Senator Pangelinan stated that the current problem sometimes is that a RFP comes in that has ten five year renewals, but at the same time another RFP comes in with a five year lease and four five year renewals so this creates a lack of uniformity regarding bids. Senator Pangelinan stated putting the determination of need up front based on the project requirements will ensure that everyone knows they are going to have a fifty year lease. Senator Pangelinan stated that Bill No. 69-32 (COR) does not seek to prohibit long term leases because it makes sure that length of leases are up front. Senator Pangelinan stated that one of the reasons this legislation was proposed is due to the recent court decision that agencies do not have the authority to enter into leases beyond five years without the approval of the legislature.

Peter Sgro, resident of Guam, stated that the clarification Senator Pangelinan made regarding Bill No. 69-32 (COR) was helpful and he encouraged the senator to create an amendment for the legislation.

Senator Pangelinan agreed to work on any applicable amendments needed.

Senator San Nicolas stated that he too agrees to work on possible amendments. Senator San Nicolas stated the testimony from GEDA is worrisome because they are asserting that Bill No. 69-32 (COR) may hurt Guam's economy, but they do not have an economist on their staff to make these assertions.

Henry Taitano, Guam Economic Development Authority, stated that he agrees GEDA needs an economist and he would like the GEDA board to consider hiring an economist. Mr. Taitano stated that lacking an economist they asked the private sector including banks and developers for their input on Bill No. 69-32 (COR).

Senator San Nicolas thanked Mr. Taitano for his input. Senator San Nicolas asked Carlos Camacho, Micronesian Community Development Corporation, if he has any amendments for Bill No. 69-32 (COR).

Carlos Camacho, Micronesian Community Development Corporation, stated that he concurs with the language clarified by Senator Pangelinan. Mr. Camacho asked how Bill No. 69-32 (COR) would affect bids issued before the legislation becomes public law.

Senator Pangelinan made comments, but his microphone was inoperative so the dialog is unheard.

Senator Cruz stated that the bids that went out originally would be complied with.

Peter Sgro, resident of Guam, stated that an amendment that provides a time period of sixty days to review the "determination of need" and if un-acted upon in those sixty days it is deemed approved would be helpful. Mr. Sgro stated that if an agency does not act on a "determination of need" for as long as six months it may hurt an investment opportunity for the people of Guam.

Senator Respicio stated that the genesis of Bill No. 69-32 (COR) is the issues at the airport regarding leases. Senator Respicio stated that if the law was being followed then this proposal may not have been introduced. Senator Respicio stated that he feels the proposal does not hamper investing because it levels the playing field and informs investors of exactly what the terms are. Senator Respicio stated that it may be possible that if a contract is entered into requiring a twenty year lease that the government can provide for the first five years, but if in the event the legislature rejects the additional fifteen years then the contract is not binding so that the developer has the option of pulling out.

Peter Sgro, resident of Guam, stated that from a financing standpoint he believes that what Senator Pangelinan stated is really in tune with the lending industry. Mr. Sgro stated that if a bid goes out for an affordable housing project for five years with the possibility of twenty no bank is going to provide the financing.

Senator Respicio stated that what he is proposing is that the lease would be conditional subject to the additional fifteen years to be approved by the legislature.

Peter Sgro, resident of Guam, stated that a bidder would not get any type of financing with a conditional lease.

Senator Cruz stated that the way Bill No. 69-32 (COR) is written is that before the bid goes out for a large construction project for $40 or $50 million, for example, then the agency should know that it will need a long term lease. Senator Cruz said that a determination of need will then go through the General Services Agency and the Governor for clearance before it goes out to bid not afterward for uniformity and transparency.

Carlos Camacho, Micronesian Community Development Corporation, asked if he understood Senator Cruz that a lease would need approval from GSA and the Governor.

Senator Cruz stated that it is not only a lease of property, but that it is also designed for the airport concession lease because depending on how much capital is put into the project, and how much work will be done, is the rationale for determining whether the project requires a five year lease or one that is lengthier. Senator Cruz stated he hopes a department or agency realizes the breadth of work necessitated to determine the length of lease required.

Senator Cruz thanked members of the panel for their comments then asserted that the record will be open for ten days so that residents may submit their testimonies.

III. FINDINGS AND RECOMMENDATION

Informed by feedback provided during the Public Hearing, the Committee amended the introduced legislation to create Substitute Bill 69-32. In addition to minor grammar corrections and stylistic improvements, the following substantive changes were incorporated:

- Section 1 (Legislative Findings and Intent) was amended to clarify that the legislation does not intend to restrict agencies from entering into lease agreements in excess of five years. Rather, the intent is to promote transparency and assure that all such contracts are properly reviewed.
- On page 2, line 18, the requirement to transmit documentation to the "Legislative Secretary" was changed to the "Speaker of *I Liheslaturan Guåhan*", to better match existing processes for transmitting formal communiqué to the Legislature.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
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- On page 2, line 23 (beginning of subsection c), language was added to clarify that the notice of solicitation is to be published subsequent to transmitting a Determination of Need to the Legislature.
- On page 3, line 3 (in subsection d), the sixty-day requirement was reduced to thirty days, in order to address concerns that a lengthy process will unduly delay progress.

The Committee on General Government Operations and Cultural Affairs to which was referred Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities hereby submits these findings to *I Mina' Trentai Unu na Liheslaturan Guåhan* and reports out Substitute Bill No. 69-32 (COR) with a recommendation To Pass

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (First) Regular Session

Bill No. 69-32 (COR)

Introduced by: T.C. Ada
B.J. Cruz
R.J. Respicio

AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF TITLE 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.

2013 MAR 18 PM 12:21

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there is no uniform standard relative to the duration of commercial leases, permits or licenses for the use of Government of Guam real property and other related facilities.

I Liheslaturan Guahan finds that five (5) years is a reasonable term limit for commercial leasing, permitting or licensing for the use of Government of Guam real property and other related facilities, but also recognizes that terms beyond five years may be warranted to allow time to amortize investments associated with substantial capital improvements that have been solicited or other investments that improve the services, capabilities and performance of the contracting agency by a quantifiable sum.

Section 2. §5351 of Chapter 5, Title 5 Guam Code Annotated is hereby added to read:

"§5351. Commercial Leasing of Public Real Property and Related Facilities.

a. **Public Real Property and Related Facilities.** From the effective date of this law, and notwithstanding any other provision of law, no commercial contract, lease, permit or license for use of public real property and related facilities shall be solicited, negotiated, entered into, or made for a term in excess of five (5) years. This shall include any extensions, options and renewals. Any contract, lease, permit or license made, renewed or

extended in violation of this law shall become void upon the fifth (5th) anniversary of the making of such contract, lease, permit or license.

b. **Exceptional Term Leases.** The Chief Procurement Officer, the Director of Public Works, or the Head of a purchasing agency, as authority may exist therefore, may solicit a contract for a term longer than otherwise allowed by this section (an "exceptional term contract"). Prior to soliciting or making any exceptional term contract, the Governor, or in the case of an autonomous agency the Board of Directors, shall make a written Determination of Need justifying an exceptional term for such contract, and provide a copy of such Determination of Need to the Legislative Secretary. No exceptional term contract shall be solicited or made unless, after obtaining the Determination of Need from the Governor or in the case of an autonomous agency the Board of Directors, a notice of solicitation therefore is published as provided in § 5211(c) of this Chapter, such notice to conspicuously note the solicitation is for an Exceptional Term Contract, and specifying the term thereof as well as the date of the Governor's Determination of Need. Any exceptional term contract made in violation of this subsection shall be void.

c. **Legislative Approval Required for Exceptional Term Contracts.** Subsequent to satisfying the requirements of §5351, the commercial contract, lease, permit or license for use of public real property and related facilities shall be transmitted to the Speaker of *I Liheslaturan Guåhan* for approval or disapproval, in whole. If *I Liheslaturan Guåhan* takes no

action within sixty (60) calendar days from the date of filing with the Speaker, the commercial contract, lease, permit or license shall be deemed approved by *I Liheslaturan Guåhan.*"

Section 3. Severability. If any provision of this Act, or the application of any part of this Act to any person or circumstance, is held to be invalid as contrary to law, or unenforceable, such holding shall not affect any other provision hereof, nor any other application of this Act which can be given effect to any other person or in any other circumstance, and to this end the provisions of this Act are severable and the remainder shall be construed in such manner as to avoid invalidity or unenforceability.

Section 4. Effective Date. This Act shall become effective upon enactment.

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (First) Regular Session

Bill No. 69-32 (COR)
As substituted by the
Committee on General Government
Operations and Cultural Affairs

Introduced by: T.C. Ada
B.J. Cruz
R.J. Respicio

AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there is no uniform standard relative to the duration of commercial leases, permits or licenses for the use of Government of Guam real property and other related facilities.

I Liheslaturan Guåhan finds that five (5) years is a reasonable term limit for agencies to enter into commercial leasing, permitting or licensing for the use of Government of Guam real property and other related facilities, but also recognizes that terms beyond five years may be warranted to allow time for the leasee, permittee, or licensee to make investments that may be needed to ensure the viability and success of a business plan, and to allow sufficient time to amortize these investments.

I Liheslaturan Guåhan further finds that public properties and facilities are assets owned by the people of Guam. It is important therefore, that a standard for leasing Government of Guam real property that will improves transparency and clarity in the leasing of public property, and to ensure that 'exceptional term contracts' with terms greater than five (5) years be required to be scrutinized by the Guam Legislature.

Section 2. §5351 of Chapter 5, Title 5 Guam Code Annotated is hereby added to read:

"**§5351. Commercial Leasing of Public Real Property and Related Facilities.**

a. **Public Real Property and Related Facilities.** From the effective date of this law, and notwithstanding any other provision of law, no commercial contract, lease, permit or license for use of public real property and related facilities shall be solicited, negotiated, entered into, or made for a term in excess of five (5) years. This shall include any extensions, options and renewals. Any contract, lease, permit or license made, renewed or extended in violation of this law shall become void upon the fifth (5th) anniversary of the making of such contract, lease, permit or license.

b. **Exceptional Term Leases.** The Chief Procurement Officer, the Director of Public Works, or the Head of a purchasing agency, as authority may exist therefore, may solicit a contract for a term longer than otherwise allowed by this section (an "exceptional term contract"). Prior to soliciting or making any exceptional term contract, the Governor, or in the case of an autonomous agency the Board of Directors, shall make a written Determination of Need justifying by a quantifiable sum an exceptional term contract and specifying the full term, inclusive of extensions, options and renewals, for such contract, and provide a copy of such Determination of Need to the Speaker of *I Liheslaturan Guåhan.* No exceptional term contract shall be solicited or made unless, after obtaining the Determination of Need from the Governor, or in the case of an autonomous agency the Board of Directors.

c. Subsequent to transmitting a Determination of Need to the Speaker of *I Liheslaturan Guåhan,* a notice of solicitation shall be published as provided in §5211(c) of this Chapter, such notice to conspicuously note the solicitation is for an Exceptional Term Contract, and specifying the term thereof as well as the date of the proper Determination of Need. Any exceptional term contract made in violation of this subsection shall be void.

d. **Legislative Approval Required for Exceptional Term Contracts.** Subsequent to satisfying the requirements of §5351, the commercial contract, lease, permit or license for use of public real property and related

facilities shall be transmitted to the Speaker of *I Liheslaturan Guåhan* for approval or disapproval, in whole. If *I Liheslaturan Guåhan* takes no action within thirty (30) calendar days from the date of filing with the Speaker, the commercial contract, lease, permit or license shall be deemed approved by *I Liheslaturan Guåhan.*"

Section 3. Severability. If any provision of this Act, or the application of any part of this Act to any person or circumstance, is held to be invalid as contrary to law, or unenforceable, such holding shall not affect any other provision hereof, nor any other application of this Act which can be given effect to any other person or in any other circumstance, and to this end the provisions of this Act are severable and the remainder shall be construed in such manner as to avoid invalidity or unenforceability.

Section 4. Effective Date. This Act shall become effective upon enactment.

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
Web Address: www.senatorbjcruz.com

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The 32nd Guam Legislature • senator@senatorbjcruz.com
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PUBLIC HEARING SIGN-IN SHEET

Tuesday, April 2, 2013

I Liheslatura • Public Hearing Room • Hagåtña, Guam

Bill No. 69-32 (COR)

NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS
Carlos Camacho	IMCSC	oppose		X	687-7237	irorwood@housing.guam.com
Peter Sgro	Personal	Oppose	~~X~~	X	688-7476	psgro@ite.net
Henry Tatano	GEDA	oppose	X	X	687-7223	henry.tsitano@sguam.go
Ron McNinch	SIC	input		X		
NAME	AGENCY OR ORGANIZATION	SUPPORT? OPPOSE?	WRITTEN TESTIMONY	ORAL TESTIMONY	PHONE NUMBER	EMAIL ADDRESS

GEDA
GUAM ECONOMIC DEVELOPMENT AUTHORITY
Aturidåd Inadilånton Ikunumihan Guahan

EDWARD J.B. CALVO
GOVERNOR OF GUAM
I MAGA' LAHEN GUAHAN
RAYMOND S. TENORIO
LT. GOVERNOR OF GUAM
I SEGUNDO NA MAGA' LAHEN GUAHAN
HENRY J. TAITANO
ACTING ADMINISTRATOR
ADMINASTRADOT

Public Hearing Testimony of Mr. Henry J. Taitano, Acting Administrator
Guam Economic Development Authority
Tuesday, April 2, 2013

Bill No. 69-32

AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF TITLE 5 GCS, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES

Good morning Vice-Speaker Cruz and members of the Committee on General Government Operations and Cultural Affairs. My name is Henry J. Taitano, Acting Administrator of the Guam Economic Development Authority (GEDA), and I hereby submit this testimony on Bill No. 69-32.

The Guam Economic Development Authority (GEDA)'s does not support Bill 69-32 for the following reasons:

1. **The intent does not appear to state any clear positive value to the government or the community**
2. **The findings of the bill are not consistent with the realities of developing real property**
3. **The additional layer of approval by the legislature creates seemingly unnecessary obstacles for development**
4. **The bill will likely have a negative impact on the value of government property**

I will address each of these reasons in detail below.

The intent does not appear to state any clear positive value to the government or the community

The bill states that *"**I Liheslaturan Guåhan** finds that there is no uniform standard relative to the duration of commercial leases, permits, or licenses for the use of Government of Guam real property and other related facilities."*

The bill does not state why a *"uniform standard relative to the duration of leases, permits, or licenses"* is needed. The items mentioned in this section identify distinctly different types of agreements that can be executed between the government and another entity. It is unclear why there would be a desire to create a uniform standard relative to the duration of these agreements, when these agreements by definition are distinctly different from each other. In addition, the intent does not state what value there would be in a standard for duration. Leases alone have various terms or durations that are **driven by multiple variables** including: the type of property, improvements needed for development, financing, and time for construction to name a few.

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The findings of the bill are not consistent with the realities of developing real property.

The bill states that "five (5) years is a reasonable term limit for commercial leasing". This statement is not realistic for properties in need of substantial improvements or construction. For example, consider the case of raw land being leased to a developer who intends on constructing a facility. The 5 year term limit would not provide adequate time for the developer to realistically make a return on the investment of the land lease and building construction. If the developer needed financing through a bank, which is the case for most local developers, it would be highly unlikely any financial institution would finance the construction on land the developer may not have control of or rights to in 5 years. This requirement may **hurt local businesses that need realistic lease terms** in order to develop property. In addition, the requirement may make the investment and development of government property by foreign investors less attractive.

GEDA does not support this bill because it may hurt local businesses and diminish Guam's competitiveness in attracting foreign investment.

The additional layer of approval by the legislature creates seemingly unnecessary obstacles for development.

The bill requires the Board of an Agency or the Governor to get the approval of the Legislature for *"the commercial contract, lease, permit, or license for use of public real property and related facilities..."*. This requirement is unnecessary since Boards have been established to guide and support the Management of the agencies in making these executive decisions. It is also important to note that board members, as well as most agency directors, are confirmed by the legislature, which has entrusted these appointees to fulfill their executive roles.

This bill creates a mandate that is not needed and not funded. The bill goes on to say that if the Legislature does not act within 60 days, then the *"commercial contract, lease, permit or license shall be deemed approved"*. This statement aknowledges that the Legislature may lack the ablility to make a descision in a timely manner as it creates a protocol for indecision or potential inaction. If this were to occur, there may be a negative fiscal impact. The bill does not identify a funding source to support the additional actions and approvals required by those involved, which is likely something that was recognized during the development of the bill, since there is language that allows for approvals, in the event the Legislature cannot act in a timely manner.

The bill will likely have a negative impact on the value of government property.

The potential financing for real property development is related to the financial risks associated with the development and the value of the asset being collateralized, among other things. This bill sets a 5 year limit on leases which will prevent developers from securing financing and may deter potential investment.

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This bill may have the undesired impact of lowering the value of the government property which GEDA cannot support. The value of the property is at times related to the lease terms and this bill sets unrealistic terms that are not attractive for commercial development. The financial state of the federal government and the impacts of sequestration will result in less federal money entering Guam's economy. This only further illustrates the need for our local government to be as attractive to new investment and development that is beneficial to our community.

Based on the foregoing, GEDA does not support this bill.

In closing, I again thank you and the members of your Committee for this opportunity to provide testimony today.

Si Yu'os Ma'ase,

Henry J. Taitano

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PORT OF GUAM
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Website: *www.portguam.com*

Eddie Baza Calvo
Governor of Guam
Ray Tenorio
Lieutenant Governor

April 2, 2013

Honorable Benjamin J.F. Cruz
Vice Speaker
Chairman, Committee on Procurement, Cultural Affairs,
Public Broadcasting, Youth & General Government Operation
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

Hafa Adai Vice Speaker Cruz:

The Port Authority of Guam submits this testimony against the passage of Bill 69-32 (COR), entitled, ***"An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities."***

The Port Authority is in the unique position as being one of two Government of Guam agencies presently authorized to enter into a commercial lease for the use of its property for a term not to exceed five years. The statute authorizing the five year term (12 G.C.A. Section 10105(i)) was enacted into law in 2001 by Public Law 26-28.

At the time that P.L. 26-28 was passed, the Port Authority's leases for office and warehouse space were on a month-to-month basis because of the restrictions set forth in 21 G.C.A. Section 60112 which requires that government-owned real property shall not be leased or sold with the prior approval of *I Liheslaturan Guåhan.* Since the passage of P.L. 26-28 in 2001, the ability to enter into 5-year leasehold terms has provided the Port Authority's tenants with some stability. While we are appreciative of the capability to enter into these types of short-term leases, we don't think it is a sharp enough marketing tool to attract valid, long term investors for the community and for optimally maximizing the real estate resources we have on hand. This is particularly so with the smaller local business tenants. The 5-year term limit has proven to be a double-edged sword because major commercial developers are discouraged from leasing because 5 years is not enough time to realize long-term return on their investments.

To an extent, Bill 69-32 recognizes these business issues and provides for the authorization of certain "exceptional term" leases over 5-years subject to the approval of *I Liheslaturan Guåhan.* While the intention is well-meaning, from a practical business perspective, it has become clear over the years that investors are concerned about the uncertainty of the legislative approval process, and this in turn has had a chilling effect.

over the years that investors are concerned about the uncertainty of the legislative approval process, and this in turn has had a chilling effect.

Current law and Bill 69-32 in its present form impedes on the unique nature and economic autonomy of the island's lone commercial seaport. This provides a significant disadvantage as the Port is required to generate sufficient revenue to cover its operating costs and address needed improvements to Port facilities and equipment.

With the implementation of the 5-year lease limitation since 2001, the Port Authority has been unable to fully maximize its potential to attract institutional commercial tenants who are willing to invest in a 5-year term or to otherwise subject their investment to the legislative approval process. For these reasons, the Port Authority does not support Bill 69-32 inasmuch as it does very little to change the present situation as it exists under 21 G.C.A. Section 60112.

Sincerely,

JOANNE M.S. BROWN
General Manager

COMMITTEE ON RULES

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CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
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Vice-Speaker
Benjamin J.F. Cruz
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Legislative Secretary
Tina Rose Muña Barnes
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Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

Certification of

Waiver of

Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **BILL NO. 69-32 (COR) - "AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC AREA"** – on March 19, 2013. COR hereby certifies that BBMR confirmed receipt of this request on March 19, 2013 at 2:10 P.M.

COR further certifies that a response to this request was not received. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 69-32 (COR) to be included in the committee report on said bill, is hereby waived.**

Certified by:

Senator Thomas C. Ada
Acting Chairperson, Committee on Rules

May 17, 2013
Date

COMMITTEE ON RULES

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MINORITY LEADER

Senator
Aline Yamashita
Member

March 19, 2013

2013 MAR 19 PM 2:41

VIA FACSIMILE
(671) 472-2825

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note – Bill Nos. 65-32(COR) through 69-32(COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bill. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bill.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Vice Speaker Benjamin F.J. Cruz
Acting Chairperson, Committee on Rules

Attachments

Cc: Clerk of the Legislature

Request for Fiscal Note – Bill Nos. 65 through 69-32 (COR)

Bill No. 65-32 (COR) - *M.F.Q. San Nicolas*- AN ACT TO PROVIDE FOR EDUCATIONAL PROGRAMS FOR NEW MEMBERS OF BOARDS AND COMMISSIONS BY ADDING A NEW SECTION §43116 TO 5 GCA.

Bill No. 66-32 (COR) - *Judith T. Won Pat, Ed.D. B. J.F. Cruz*- AN ACT RELATIVE TO AUTHORIZING THE GUAM POLICE DEPARTMENT TO PROCURE POLICE VEHICLES.

Bill No. 67-32 (COR) - *V.C. Pangelinan*- AN ACT TO AMEND SECTION 2(a) AND SECTION 3(b) AND TO ADD A NEW SECTION 4 OF PUBLIC LAW 24-33 RELATIVE TO AMENDING THE LICENSE AGREEMENT BETWEEN THE GUAM FOOTBALL (SOCCCER) ASSOCIATION AND THE GOVERNMENT OF GUAM.

Bill No. 68-32 (COR) - *V.C. Pangelinan* - AN ACT TO AUTHORIZE I MAGA'LAHEN GUÅHAN TO EXCHANGE A PORTION OF TRACT 11405 (FORMERLY LOT NUMBER 10120-20), MUNICIPALITY OF DEDEDO, WITH A PORTION OF LOT NUMBER 3255-6-R4, MUNICIPALITY OF ORDOT-CHALAN PAGO.

Bill No. 69-32 (COR) - *T.C. Ada - AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC AREA*

COMMITTEE ON RULES

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MINORITY LEADER

Senator
Aline Yamashita
Member

March 18, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje)
Legislative Legal Counsel

From: **Vice Speaker Benjamin J.F. Cruz**
Acting Chairperson, Committee on Rules

Subject: **Referral of Bill No. 69-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 69-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	STATUS
69-32 (COR)	TCA	AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.	3/18/13 12:21 p.m.	**3/18/13**	Committee on General Governmental Operations and Cultural Affairs			

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
and Cultural Affairs
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March 25, 2013

MEMORANDUM

To: All Members/All Senators

From: Chairman, Committee on General Government Operations and Cultural Affairs

Re: First Notice of Public Hearing – Five Day Notice – April 2, 2013

Hafa Adai! Please be advised that the Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing on **Tuesday, April 2, 2013, beginning at 10:00AM in *I Liheslatura's Public Hearing Room*** with the following agenda:

Reappointment of Mr. John A. Smith to the Civil Service Commission

Bill No. 65-32 (COR) - M.F.Q. San Nicolas - An act to provide for educational programs for new Members of Boards and Commissions by adding a new section §43116 to 5 GCA.

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities.

Please provide written testimonies at least one day prior to the hearing to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagåtña Guam 96910. They may be sent via facsimile to 477-2522, or via email to mike.lidia@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Mike Lidia at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at mike.lidia@senatorbjcruz.com.

Senseramente,

Mike Lidia
Research Analyst
Office of Vice Speaker Cruz
477-2520

Gmail

Mike Lidia <mike.lidia@senatorbjcruz.com>

Re: FW: First Notice of Public Hearing - Five Day Notice - April 2, 2013

1 message

Adam Bearce <adam@guamlegislature.org> Mon, Mar 25, 2013 at 5:10 PM
To: Yong Pak <yong@guamlegislature.org>, Mike Lidia <mike.lidia@senatorbjcruz.com>

Hi. This is now posted.

On Mon, Mar 25, 2013 at 5:08 PM, Yong Pak <yong@guamlegislature.org> wrote:

From: Mike Lidia [mailto:mike.lidia@senatorbjcruz.com]
Sent: Monday, March 25, 2013 5:03 PM
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Subject: First Notice of Public Hearing – Five Day Notice – April 2, 2013

March 25, 2013

MEMORANDUM

To: All Members/All Senators

From: Chairman, Committee on General Government Operations and Cultural Affairs

Re: First Notice of Public Hearing – Five Day Notice – April 2, 2013

Hafa Adai! Please be advised that the Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing on **Tuesday, April 2, 2013, beginning at 10:00AM in *I Liheslatura's Public Hearing Room*** with the following agenda:

Reappointment of Mr. John A. Smith to the Civil Service Commission

Bill No. 65-32 (COR) - M.F.Q. San Nicolas - An act to provide for educational programs for new Members of Boards and Commissions by adding a new section §43116 to 5 GCA.

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities.

Please provide written testimonies at least one day prior to the hearing to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagåtña Guam 96910. They may be sent via facsimile to 477-2522, or via email to mike.lidia@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Mike Lidia at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at mike.lidia@senatorbjcruz.com.

Senseramente,

Mike Lidia

Research Analyst

Office of Vice Speaker Cruz

477-2520

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SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on General Government Operations
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March 27, 2013

MEMORANDUM

To: All Members/All Senators

From: Chairman, Committee on General Government Operations and Cultural Affairs

Re: Second Notice of Public Hearing – Two Day Notice – April 2, 2013

Hafa Adai! Please be advised that the Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing on **Tuesday, April 2, 2013, beginning at 10:00AM in *I Liheslatura's Public Hearing Room*** with the following agenda:

Reappointment of Mr. John A. Smith to the Civil Service Commission

Bill No. 65-32 (COR) - M.F.Q. San Nicolas - An act to provide for educational programs for new Members of Boards and Commissions by adding a new section §43116 to 5 GCA.

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities.

Please provide written testimonies at least one day prior to the hearing to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagåtña Guam 96910. They may be sent via facsimile to 477-2522, or via email to mike.lidia@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Mike Lidia at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at mike.lidia@senatorbjcruz.com.

Senseramente,

Mike Lidia
Research Analyst
Office of Vice Speaker Cruz
477-2520

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Second Notice of Public Hearing for April 2, 2013

39 messages

Mike Lidia <mike.lidia@senatorbjcruz.com> Wed, Mar 27, 2013 at 9:24 AM
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March 27, 2013

MEMORANDUM

To: All Members/All Senators

From: Chairman, Committee on General Government Operations and Cultural Affairs

Re: Second Notice of Public Hearing – Two Day Notice – April 2, 2013

Hafa Adai! Please be advised that the Committee on General Government Operations and Cultural Affairs will conduct a Public Hearing on **Tuesday, April 2, 2013, beginning at 10:00AM in *I Liheslatura's Public Hearing Room*** with the following agenda:

Reappointment of Mr. John A. Smith to the Civil Service Commission

Bill No. 65-32 (COR) - M.E.Q. San Nicolas - An act to provide for educational programs for new Members of Boards and Commissions by adding a new section §43116 to 5 GCA.

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities.

Please provide written testimonies at least one day prior to the hearing to the Office of Vice Speaker Benjamin J.F Cruz, 155 Hesler Place, Hagåtña Guam 96910. They may be sent via facsimile to 477-2522, or via email to mike.lidia@senatorbjcruz.com.

We comply with Title II of the Americans with Disabilities Act (ADA). Should you require assistance or special accommodations, please contact Mike Lidia at the Office of the Vice Speaker Benjamin J.F Cruz at 477-2521 or via email at mike.lidia@senatorbjcruz.com.

Senseramente,

Mike Lidia

Research Analyst

Office of Vice Speaker Cruz
477-2520

Mail Delivery Subsystem <mailer-daemon@googlemail.com> Wed, Mar 27, 2013 at 9:24 AM
To: mike.lidia@senatorbjcruz.com

Delivery to the following recipient failed permanently:

alawson@visitguam.org

Technical details of permanent failure:
Google tried to deliver your message, but it was rejected by the server for the recipient domain visitguam.org by aspmx.l.google.com. [2a00:1450:4010:c03::1b]

The error that the other server returned was:
550-5.1.1 The email account that you tried to reach does not exist. Please try
550-5.1.1 double-checking the recipient's email address for typos or
550-5.1.1 unnecessary spaces. Learn more at
550 5.1.1 http://support.google.com/mail/bin/answer.py?answer=6596 sk7si6965652lab.230 - gsmtp

----- Original message -----

X-Google-DKIM-Signature: v=1; a=rsa-sha256; c=relaxed/relaxed;
d=google.com; s=20120113;
h=mime-version:x-received:x-originating-ip:date:message-id:subject
:from:to:content-type:x-gm-message-state;
bh=eFOI3xQ6kzEDu3akwtmfQTJN5/Yy/YA29osgd7rWOe0=;
b=ZEkBoDI4vbB+5Ji5+RlyLrUHd+WZewRskPBUsq/zMEUJmeRyZoUXH5bWQ55EWfDAtK
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wwTbsS6/IISKwEtnxF6HxC78ORNWHSmPvHnQ+vzmNvs7hLhrfb05iY4la7Miy7gjaiM9

SENATOR BENJAMIN J.F. CRUZ, VICE SPEAKER
Chairman, Committee on Youth, Cultural Affairs, Procurement,
General Government Operations, and Public Broadcasting
Web Address: www.senatorbjcruz.com

I Mina'trenta Unu Na Liheslaturan Guahan
The 31st Guam Legislature • senator@senatorbjcruz.com
155 Hesler Place, Hagatna, Guam 96910
Telephone: (671) 477-2520/1 • Fax: (671) 477-2522

PUBLIC HEARING AGENDA

Tuesday, April 2, 2013 – 10:00AM
I Liheslatura • Public Hearing Room • Hagåtña, Guam

Reappointment of Mr. John A. Smith to the Civil Service Commission

Bill No. 65-32 (COR) - M.F.Q. San Nicolas - An act to provide for educational programs for new Members of Boards and Commissions by adding a new section §43116 to 5 GCA.

Bill No. 69-32 (COR) - T.C. Ada / B.J.F. Cruz / R.J. Respicio - An act to add a new Section §5351 to Chapter 5 of Title 5 GCA, relative to the duration of commercial leases for public real property and related facilities.

COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
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Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

Senator
Vicente (Ben) C. Pangelinan
Member

Speaker
Judith T.P. Won Pat, Ed.D.
Member

Senator
Dennis G. Rodriguez, Jr.
Member

Vice-Speaker
Benjamin J.F. Cruz
Member

Legislative Secretary
Tina Rose Muña Barnes
Member

Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

March 18, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Vice Speaker Benjamin J.F. Cruz**
Acting Chairperson, Committee on Rules

Subject: **Referral of Bill No. 69-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 69-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan.*

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (First) Regular Session

Bill No. 69-32(COR)

Introduced by: T.C. Ada
B.J. Cruz
R.J. Respicio

AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF TITLE 5 GCA, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES.

2013 MAR 18 PM 12:21

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that there is no uniform standard relative to the duration of commercial leases, permits or licenses for the use of Government of Guam real property and other related facilities.

I Liheslaturan Guåhan finds that five (5) years is a reasonable term limit for commercial leasing, permitting or licensing for the use of Government of Guam real property and other related facilities, but also recognizes that terms beyond five years may be warranted to allow time to amortize investments associated with substantial capital improvements that have been solicited or other investments that improve the services, capabilities and performance of the contracting agency by a quantifiable sum.

Section 2. §5351 of Chapter 5, Title 5 Guam Code Annotated is hereby added to read:

"§5351. Commercial Leasing of Public Real Property and Related Facilities.

a. **Public Real Property and Related Facilities.** From the effective date of this law, and notwithstanding any other provision of law, no commercial contract, lease, permit or license for use of public real property and related facilities shall be solicited, negotiated, entered into, or made for a term in excess of five (5) years. This shall include any extensions, options and renewals. Any contract, lease, permit or license made, renewed or

extended in violation of this law shall become void upon the fifth (5th) anniversary of the making of such contract, lease, permit or license.

b. **Exceptional Term Leases.** The Chief Procurement Officer, the Director of Public Works, or the Head of a purchasing agency, as authority may exist therefore, may solicit a contract for a term longer than otherwise allowed by this section (an "exceptional term contract"). Prior to soliciting or making any exceptional term contract, the Governor, or in the case of an autonomous agency the Board of Directors, shall make a written Determination of Need justifying an exceptional term for such contract, and provide a copy of such Determination of Need to the Legislative Secretary. No exceptional term contract shall be solicited or made unless, after obtaining the Determination of Need from the Governor or in the case of an autonomous agency the Board of Directors, a notice of solicitation therefore is published as provided in § 5211(c) of this Chapter, such notice to conspicuously note the solicitation is for an Exceptional Term Contract, and specifying the term thereof as well as the date of the Governor's Determination of Need. Any exceptional term contract made in violation of this subsection shall be void.

c. **Legislative Approval Required for Exceptional Term Contracts.** Subsequent to satisfying the requirements of §5351, the commercial contract, lease, permit or license for use of public real property and related facilities shall be transmitted to the Speaker of *I Liheslaturan Guåhan* for approval or disapproval, in whole. If *I Liheslaturan Guåhan* takes no

action within sixty (60) calendar days from the date of filing with the Speaker, the commercial contract, lease, permit or license shall be deemed approved by *I Liheslaturan Guåhan.*"

Section 3. Severability. If any provision of this Act, or the application of any part of this Act to any person or circumstance, is held to be invalid as contrary to law, or unenforceable, such holding shall not affect any other provision hereof, nor any other application of this Act which can be given effect to any other person or in any other circumstance, and to this end the provisions of this Act are severable and the remainder shall be construed in such manner as to avoid invalidity or unenforceability.

Section 4. Effective Date. This Act shall become effective upon enactment.