I Mina'Trentai Dos Na Liheslaturan Received

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
416-32 (LS)	Dennis G. Rodriguez, Jr	AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 58, 12 GCA, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF 1,600 NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND, PROVIDE FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA, BY ADDING A NEW § 58146.1 TO CHAPTER 58, 12 GCA.	10/21/14 3:39 p.m,.	10/21/14	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens	12/3/14 10 a.m.	12/16/14 11:27 a.m.	**Fiscal Note Request 10/22/14**
	DATE PASSED	**TITLE**	**TRANSMITTED**		**DUE DATE**	**DATE SIGNED BY I MAGA'LAHEN GUAHAN**	**PUBLIC LAW NO.**	**NOTES**
	12/19/2014	AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF ONE THOUSAND SIX HUNDRED (1,600) NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND TO ADD A NEW § 58146.1 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA.	12/21/14	6:35 p.m.	01/01/15			**As substituted by the Committee on Health and Human Services, Health Insurance Reform, Economic Development, and Senior Citizens.**

FILE COPY

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

December 21, 2014

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

Cruz, Jesse J
12/21/14
6:35 pm

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 224-32 (COR); 293-32 (COR); 306-32 (COR); 332-32 (LS); 344-32 (COR); 345-32 (COR); 376-32 (COR); 381-32 (COR); 391-32 (LS); 399-32 (COR); 400-32 (COR); 402-32 (COR); 405-32 (COR); 406-32 (COR); 412-32 (COR); 413-32 (LS); 416-32 (COR); 418-32 (COR); 419-32 (COR); 420-32 (COR); 421-32 (COR); 422-32 (COR); 423-32 (COR); 424-32 (LS); 425-32 (LS); 426-32 (COR); 427-32 (COR); 428-32 (COR); 429-32 (COR); 430-32 (COR); and 434-32 (COR), which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on December 17 and 19, 2014.

Sincerely,

TINA ROSE MUÑA BARNES
Legislative Secretary

Enclosure (31)

FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 416-32 (LS), "AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF ONE THOUSAND SIX HUNDRED (1,600) NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND TO *ADD* A NEW § 58146.1 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA,"** was on the 19th day of December, 2014, 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 21 day of Dec, 2014, at 6:35 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
2014 (SECOND) Regular Session

Bill No. 416-32 (LS)
As substituted by the Committee on Health and Human Services, Health Insurance Reform, Economic Development, and Senior Citizens.

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

AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF ONE THOUSAND SIX HUNDRED (1,600) NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND TO *ADD* A NEW § 58146.1 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the projected and desired growth of Guam's hotel industry requires the

development of an additional one thousand six hundred (1,600) new hotel rooms. It is the intent of *I Liheslaturan Guåhan* that a "Special Qualifying Certificate" specifically for the development of one thousand six hundred (1,600) new hotel rooms be enacted; and authorizing the Guam Economic Development Authority to issue the certificates for this sole specific purpose.

It is, further, the intent of *I Liheslaturan Guåhan* that a General Industry Specific Qualifying Certificate Abeyance be enacted, and that no new Qualifying Certificates, or the renewal of Qualifying Certificates, shall be approved and issued until such time as the Guam Economic Development Authority has developed industry specific policy, regulations, criteria and measurable goals ensuring the appropriate stimulation of legitimate investment of new economic development, and which *shall not* include industry specific development projects already satisfactorily established on Guam, so as to ensure that the government not unnecessarily waive needed revenue for an industry specific project category that already exists or is satisfactorily established.

Section 2. A new Article 2 is hereby *added* to Chapter 58 of Title 12, Guam Code Annotated, to read:

"ARTICLE 2

SPECIAL QUALIFYING CERTIFICATE; 1,600 HOTEL ROOMS DEVELOPMENT

§ 58201. Legislative Intent.

§ 58202. Definitions.

§ 58203. Special Hotel Qualifying Certificate Defined.

§ 58204. Fees.

§ 58205. Community Contributions.

§ 58206. "Sunset" Provision..

§ 58207. Severability.

§ 58201. Legislative Intent. *I Liheslaturan Guåhan* recognizes that the Qualifying Certificate program of the Guam Economic Development Authority (Authority) was conceived as an economic incentive tool to entice investors into Guam. In use for over four (4) decades, it has had a substantial positive impact upon the economic development of Guam, mainly in the tourist industry.

It is the goal of the Guam Visitors Bureau, under their Vision 2020, to build one thousand six hundred (1,600) new hotel rooms by 2020. Several companies have expressed interest in building hotel rooms on Guam; however, Guam must offer incentives to compete with other tourism markets.

Prospective developers have also expressed a reluctance to commit, as it is yet unknown where Guam stands with the China Visa Waiver program. This has caused a delay in the development of our number one industry, and the Qualifying Certificate could provide additional incentive to develop the 1,600 rooms in time to meet the 2020 deadline.

As such, *I Liheslatura* recognizes the aggressive goal of 1,600 hotel rooms by the year 2020, and the Guam Qualifying Certificate Program *shall* be updated to provide special incentives for hotel developers.

§ 58202. Definitions. For purposes of this Article 2, the following definitions will apply:

(a) Authority: The Guam Economic Development Authority (GEDA)

(b) Hotel: For purposes of this Article and unless the context otherwise requires, *hotel* means a building facility that contains guest rooms held out to the public as a place where all transient persons, including, but not limited to tourists, who come will be accommodated and entertained as guests for compensation based on daily or weekly rates.

(c) Construction Cost: Expenses incurred by a developer for the construction of any new hotel or for the expansion of any existing hotel in Guam. Such costs include land acquisition, building and site improvements, A&E and FF&E.

(d) Hotel Expansion: Existing Guam hotels may be eligible for this special hotel QC if new capital investment is to be made that will add to the hotel's room inventory.

(e) Renovation Cost: Expenses incurred from modernizing the elements within a structural part of real property, whose total costs are no less than twenty percent (20%) of the property value, and that either:

(1) materially increases the value of the property;

(2) substantially prolongs the useful life of the property; or

(3) adapts the property to a new or better use.

(f) Property Value: means the current appraised value of the land and improvements. The cost of such appraisal shall be borne by the hotel developer.

(g) Business Privilege Tax (BPT): The tax that is levied on business revenues as imposed by § 26201 of Article 2, Chapter 26, Title 11, GCA.

(h) Use Tax: The tax that is levied on the landed value of or consumption of all property as defined by Chapter 28 of Title 11 GCA.

§ 58203. Special Hotel Qualifying Certificate Defined. The Special Hotel Qualifying Certificate (QC) is a contract valid for a given period, executed by *I Maga'lahen Guåhan* (the Governor of Guam) upon the recommendation of the Authority. The QC, once issued and unless suspended, rescinded or revoked, *shall* constitute conclusive evidence of entitlement to the tax rebates, abatements, or exemptions set forth on its face.

(a) Hotel Construction and Expansion Tax Rebate and Abatement. There *shall* be allowed to each developer a tax rebate, exemption and abatement in an amount equal to ten percent (10%) of their total construction cost, which can be applied by the developer at their discretion to the following taxes:

(1) Fifty percent (50%) Business Privilege Tax (BPT) for twenty (20) years as long as the tax credits are available at the point they are taken.

This BPT exemption *shall not* apply to the levy of three percentage points (3%), out of the total percentage points levied from time to time, of the BPT, the revenues from which are pledged to the government of Guam Business Privilege Tax Bonds;

(2) Seventy-five percent (75%) Income Tax Rebate for twenty (20) years;

(3) One hundred percent (100%) Real Property Tax Abatement for ten (10) years; provided, the fee simple owner tax payer is the Qualifying Certificate beneficiary and that the real property on which the tax is assessed is only utilized by the beneficiary for activities identified in their qualifying certificate;

(4) One hundred percent (100%) of Use Tax Exemption with respect to the property used to construct, furnish and equip the new facility construction or substantial expansion of an existing building. The exemption must be claimed *no later than* one (1) year of issuance of the facility's occupancy permit.

(b) Application Period. Eligible developers for this special QC *shall* file their application prior to issuance of the hotel project building permit.

(c) Benefit Negotiations. The Authority has the *sole* authority to negotiate the terms of the QC. Negotiations *shall* be completed prior to issuance of the hotel project's building permit.

§ 58204. Fees.

	Application & Modification Filing Fee	**Annual Compliance Monitoring Fee**
Hotels:	$5,000.00	
Under Construction:		$3,000.00
In Operation:		$50/per room

As to the annual compliance monitoring fees, the fee *shall* be assessed annually until such time as the QC beneficiary has exhausted the total dollar amount of its QC benefit.

§ 58205. Community Contributions. As a condition of this Special Hotel QC, the QC beneficiary *shall* make a community contribution to the Authority in an amount equal to 0.5% of the total hotel construction cost. The terms of the community contributions *shall* be subject to negotiations between the Authority and the developer. Distribution of funds to be approved by the GEDA Board, based on the recommendation of the Administrator, will be to the following areas:

(a) funding for the maintenance and upkeep of certain tourist attractions or to support other tourism projects;

(b) economic development with a priority on the promotion of industry and small business; and

(c) higher education and cultural preservation.

§ 58206. "Sunset" Provision. This Article *shall* take effect on its approval by *I Maga'lahen Guåhan* and *shall* remain in effect until the earlier of:

(a) five (5) years;

(b) 1,600 hotel rooms have been committed to be built; or

(c) a China Visa Waiver or China Visa Parole declaration has been approved for Guam; upon which period this Article *shall* automatically be deemed repealed; provided, however, that the GEDA Board, at its discretion, with input from *I Liheslatura* (the Legislature), the visitor industry, the Administration, and the *community as* a whole, will re-examine the effectiveness and need of the program to determine if it should be extended, and may extend the effectiveness of this Article an additional two (2) years by adopting a resolution to such effect prior to the expiration date. Any QC issued under the conditions of this Article *shall* remain in full force and effect until its particular term expires or it is canceled on other grounds.

§ 58207. Severability. If any provision of this Law or its application to any person or circumstance is found to be invalid or contrary to Law, such invalidity shall not affect or provisions or applications of this Law which can be given effect without the invalid provisions or application and to this end the provisions of this Law are severable."

Section 3. A new § 58146.1 is hereby *added* to Chapter 58, Title 12, Guam Code Annotated, to read:

"**§ 58146.1. Qualifying Certificate; Abeyance Thereof. Development of Industry Specific Policy, Regulations, Criteria and Measurable Goals.**

(a) *No later than* sixty (60) days from the date of enactment of this Act, the Guam Economic Development Authority *shall* submit to *I Liheslaturan Guåhan* for approval, as provided pursuant to Article 3 of Chapter 9, Title 5 GCA, proposed and duly promulgated industry specific policy, regulations, criteria and measurable goals ensuring the appropriate stimulation of legitimate investment of new economic development, and which *shall not* include industry specific development projects already satisfactorily established on Guam, so as to ensure that the government not unnecessarily waive needed revenue for an industry specific project category that already exists or is satisfactorily established. In the event the mandated industry specific policy, regulations, criteria and measurable goals are *not* submitted timely, pursuant to this Subsection (a), then the following *shall* become effective ninety (90) days from the date of enactment of this Act:

(1) Hotel Qualifying Certificate; Provisional Abeyance thereof. Except as provided pursuant to Article 2 of Chapter 58, 12 GCA, no renewal of Qualifying Certificates for hotels shall be approved and issued until such time as the Guam Economic Development Authority has developed, pursuant to Article 3 of Chapter 9, 5 GCA, industry specific policy, regulations, criteria and measurable goals ensuring appropriate stimulation of legitimate investment of new economic development; and

(2) General Industry Specific; Provisional Abeyance thereof. No new Qualifying Certificates, or the renewal of Qualifying Certificates, shall be approved and issued until such

time as the Guam Economic Development Authority has developed, pursuant to Article 3 of Chapter 9, 5 GCA, industry specific policy, regulations, criteria and measurable goals ensuring the appropriate stimulation of legitimate investment of new economic development, and which *shall not* include industry specific development projects already satisfactorily established on Guam, so as to ensure that the government not unnecessarily waive needed revenue for an industry specific project category that already exists or is satisfactorily established."

Section 4. Severability. If any provision of this Act or its application to any person or circumstance is found to be invalid or contrary to law, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are severable.

Section 5. This Act *shall* become effective upon enactment.

LEGISLATIVE SESSION

I *MINA'TRENTAI DOS NA LIHESLATURAN*

2014 (SECOND) Regular Session

Voting Sheet

Bill No. 416-32 (COR)
As substituted by the Committee on Health & Human Services, Health Insurance Reform, Economic Development,
And Senior Citizens.

Speaker Antonio R. Unipingco Legislative Session Hall
December 17, 2014

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		I ✓			
Senator Brant McCREADIE					✓ Ex.
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓	I			
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				
TOTAL	11	2			1 Ex.
	Yea	**Nay**	**Not Voting/ Abstained**	**Out During Roll Call**	**Absent**

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

I = Pass