EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

July 7, 2017

The Honorable Benjamin J.F. Cruz
Speaker
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Liheslaturan Guåhan
Guam Congress Building
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Speaker Benjamin J.F. Cruz

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Dear Mr. Speaker:

Transmitted herewith are two pieces of legislation, which are companion bills that would allow for the modernization of the Guam Memorial Hospital (GMH) and authorize an additional series of business privilege tax bonds to finance the renovation and/or new construction of certain GMH facilities, and related matters.

There have been heightened concerns over the condition of existing facilities of GMH, as well as the potential funding sources for the renovation or construction of new facilities. The aged facilities at GMH have posed a challenge in addressing the demands of the community. While technology and methods of diagnosis and treatment continue to change, so, too, does the standard of care.

Major capital improvements are necessary in order for the Guam Memorial Hospital Authority (GMHA) to establish, upgrade, and enhance its standard of care, and to meet its public mandate of providing quality medical care to the people of Guam. Such improvements would also enhance operational efficiency and revenue collection, enabling further development in the quality of care that GMH delivers.

The first measure will authorize a bond issuance of $125 million dollars to address long overdue facility improvements for:

1. Demolition of the Z wing and its replacement;
2. Fixtures, furnishings, and equipment;
3. IT improvements;
4. A new parking structure;
5. Electrical panel upgrades; and
6. Roof system upgrades.

The second measure will increase the current Business Privilege Tax (BPT) from 4% to 4.75% to fund both the debt service on the $125M, and the continued operation funding that GMH needs. This measure will also ensure that GMH receives the operational funding for a minimum of ten years.

Finally, this second measure will exempt medical and dental clinics from the BPT increase and require that the reduced BPT rate be applied to these vital and supportive facilities.

I ask for your help in moving these measures through the legislative process. Thank you for your time and consideration as we work toward improving healthcare for everyone on our island.

Senseramente,

EDDIE BAZA CALVO
Governor of Guam

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. _____**-34**

Introduced by:

By request of *I Maga'låhen Guåhan*, the Governor of Guam, in accordance with the Organic Act of Guam.

AN ACT TO AMEND § 26202 OF CHAPTER 26, DIVISION 2, TITLE 11, GUAM CODE ANNOTATED, AND RELATED MATTERS

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Amendment of § 26202 of Chapter 26, Division 2, Title 11, Guam Code Annotated and Related Matters.

(a) § 26202 of Chapter 26, Division 2, Title 11, Guam Code Annotated is hereby amended as follows:

"**§ 26202. Rates.**

The following rates shall apply in computing, assessing and collecting the business privilege tax:

(a) Tax on the business of selling tangible personal property. Upon every person engaging or continuing within Guam in the business of selling any tangible property whatsoever (not including however, bonds or other evidence of indebtedness or stocks), there shall be a tax equivalent to ~~four percent (4%)~~ four and three quarters percent (4.75%) of gross proceeds of sales; except that on the

gross proceeds of the operation of poker machines, there shall be a tax equivalent to eight percent (8%) on the gross proceeds of each machine, as determined by subtracting the winnings, pay-outs and malfunction refunds from total receipts of each machine.

(1) Provided, that gross proceeds of export sales of tangible property in foreign commerce shall not constitute a part of the measure of the tax imposed. Although not constituting a part of the measure of the tax imposed, all such sales shall be reported in the manner provided for the reporting of the tax imposed by § 26202(a).

(2) Provided, that any person engaging or continuing in business as a retailer and a wholesaler shall pay the tax required solely on the gross proceeds of sales of the retail business, and his books must be kept so as to show separately the gross proceeds of sale of each business.

(3) Provided, that a manufacturer or producer engaging in the business of selling his manufactured products at retail in Guam shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed by this Chapter for the privilege of engaging in the business of selling such products at retail in the territory of Guam; and

(4) Provided, that a manufacturer or producer, other than a manufacturer of alcoholic beverages, engaging in the business of selling his products to manufacturers, wholesalers, or licensed retailers, or persons actually selling the products to the United States Government, shall not be required to pay the tax imposed in this Act for the privilege of selling such

products at wholesale. Nor shall any such manufacturer or producer, other than a manufacturer of alcoholic beverages, be required to pay the tax imposed in this Act for the privilege of selling products for delivery to the purchaser outside of Guam. The point of delivery for a purchaser outside of Guam may be on Guam, if the product's ultimate destination or consumption is outside of Guam.

(b) (1) [Repealed.]

(2) [Repealed.]

(3) Tax upon boxing. The tax levied and assessed under Subsections (b)(1) and (b)(2) (repealed) of this Section shall not apply to boxing for which a tax equivalent to twelve percent (12%) of the gross income of such boxing business is hereby levied and assessed.

(c) Tax on service business. Upon every person engaging or continuing within Guam, in any service business or calling not otherwise specifically taxed under this Section, [there shall be] a tax equivalent to ~~four percent (4%)~~ four and three quarters percent (4.75%) of the gross income of such business.

(d) Professions. Upon every person engaging or continuing within Guam in the practice of a profession, excluding those expounding the religious doctrines of any church, [there shall be] a tax equivalent to ~~four percent (4%)~~ four and three quarters percent (4.75%) of the gross income of such practice. ["There shall be" added by editor, 1970 Ed. of the Government Code]

(e) Tax on Contractors. There shall be levied, assessed and collected a tax rate of ~~four percent (4%)~~ four and three quarters percent (4.75%) measured

against the gross income of any contractor; provided, that there shall be deducted from the gross income of the taxpayer so much thereof as has been included in the gross income earned from another taxpayer who is a contractor as defined in § 26101(b) and who has already paid the tax levied under this Subsection for goods and services that include the deductible gross income of the taxpayer who is a contractor; provided, that any person claiming a deduction under this Subsection shall be required to show in the person's return either the name and the contractor's license number issued by the Guam Contractors License Board, or the Guam business license number, or the registration number for a professional engineer, architect or land surveyor, or the Certificate of Authorization (COA) number for a business authorized to provide engineering, architecture or land surveying services by the Guam Board of Registration for Professional Engineers, Architects, and Land Surveyors of the person paying the tax on the amount deducted by the person.

(f) Tax on banks, banking institutions, small lenders and building and loan associations. Upon every person engaging or continuing within Guam in the business of operating any bank, banking institutions, building and loan association, small lending business, or lending institutions, there shall be a tax equivalent to ~~four percent (4%)~~ four and three quarters percent (4.75%) of the net income received from business.

(1) Net Income. For the purpose of this Section, net income shall mean the gross income of such taxpayer received from all sources less the following deductions therefrom:

(A) Salaries or bonuses paid and other compensation from personal services.

(B) Interest or discount paid.

(C) Rents paid.

(D) Ordinary operating expenses such as supplies, utility services, insurance premiums other than for life insurance, provided that any deductible insurance expense shall be allowable only to the extent that such a premium is applicable to the tax period against which it is claimed.

(E) Loans or obligations charged off the books of the bank as losses unless charged against reserves then in existence.

(F) Losses other than loan losses, such as those occasioned by fire or other casualty, theft, embezzlement, and the like, but only to the extent not covered by insurance proceeds collected.

(G) Transfers from earnings to reserve for bad debts or other contingencies provided for.

(H) Miscellaneous direct expenses such as legal, advertising, auditing, and the like.

(I) Loss on property sold and depreciation on property owned.

(2) A person liable for the payment of taxes levied under this Section shall be required to file an annual return, and shall not be required to file monthly returns. The tax year shall be calendar year except that the taxpayer may use his annual accounting period when prior permission is obtained from the Tax Commissioner.

The annual return under this Subsection shall be filed not later than ninety (90) days following the close of the taxpayer's tax year.

(g) Dealing in foreign currency. Upon every person engaging or continuing within Guam in the business of purchasing and selling foreign money, there shall be a tax equivalent to ~~four percent (4%)~~ four and three quarters percent (4.75%) of the gross profit of such business represented by the difference between the cost and selling price of the foreign currency measured in United States dollars.

(h) Tax on other business. Upon every person engaging or continuing within Guam in any business, trade, activity, occupation or calling not specifically included in any other provision of this Article, there shall likewise be a tax equivalent to ~~four percent (4%)~~ four and three quarters percent (4.75%) of the gross income of such business. This Section shall apply to the gross income of persons taxable under other provisions of this Chapter but which gross income is not derived from the exercise or privilege taxable thereunder.

(i) Insurers. Upon every person engaged or continuing within Guam in the business of an insurer, there shall be a tax at the rate of ~~four percent (4%)~~ four and three quarters percent (4.75%) of gross income received as premium for the writing of insurance, less returned premiums and less all commissions attributable to the sale and purchase of an insurance policy or policies of the insurer paid by said insurer to agents of the same, and ~~four percent (4%)~~ four and three quarters percent (4.75%) of any other gross income earned or derived on Guam.

(j) Tour Agencies. Upon every person engaging or continuing within Guam in the business of a tour agency or travel agency, where tourism-related

services are furnished to consumers by independent vendors through arrangements made by a travel agency, or tour packager, and the gross income is divided between the provider of the services on the one hand and the travel agency or tour packager on the other hand, a tax equivalent of ~~four percent (4%)~~ four and three quarters percent (4.75%) shall be imposed on each person with respect to such person's respective portion of the proceeds, and no more.

Where transient accommodations are furnished through arrangements made by a travel agency or tour packager, the gross income is divided between the provider of the transient accommodations on the one hand and the travel agency, or tour packager, on the other hand, a tax equivalent of ~~four percent (4%)~~ four and three quarters percent (4.75%) shall be imposed on each person with respect to such person's respective portion of the proceeds, and no more.

(1) As used in this Subsection tourism-related services shall mean dinner cruises, transportation included in a tour package, sight seeing tours, dinner shows, extravaganzas, cultural and educational facilities, and other services rendered directly to the customer or tourist.

(2) As used in this Subsection 'transient accommodations' shall mean hotel, lodging facility, or similar facility located on Guam and subject to the provisions of 11 GCA § 30101."

(b) The tax increase imposed by subsection 2(a) of this act shall take effect no later than thirty (30) days after enactment.

(c) Revenues derived from the increase in the Business Privilege Tax ("BPT") rate set forth in Section 2(a) above shall constitute "Business Privilege Tax Revenues" under that certain

Indenture, dated as of December 1, 2011, by and among the government of Guam, Bank of Guam, as trustee, and U.S. Bank National Association, as co-trustee, as amended or supplemented from time to time in accordance with its terms (the "BPT Indenture"). Any revenues derived from the increase of the BPT rate in Subsection 2(a) released to the government of Guam in accordance with Section 5.02(E) of the BPT Indenture, less amounts necessary to pay debt service on bonds authorized in Bill _____-34 (the "2017 Bonds") in the applicable fiscal year, shall be used first for Guam Memorial Hospital Authority, including, but not limited to, capital investment, operational requirements or reserves. *I Liheslaturan Guåhan* may review the application of revenues from the increase of the BPT rate in Subsection 2(a) towards Guam Memorial Hospital Authority commencing on the date which is ten (10) years following the effective date of such increase referenced in Section 2(b).

(d) Neither the 1% of the BPT that is not pledged to the BPT Bonds nor the increase in the BPT set forth in Subsection 2(a) shall apply to income generated from medical and dental clinics.

Section 2. The requirements imposed by § 16311, Chapter 16 of Title 3, Guam Code Annotated, shall be waived for the purpose of this act.

Section 3. 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.

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. _____**-34**

Introduced by:

By request of *I Maga'låhen Guåhan*, the Governor of Guam, in accordance with the Organic Act of Guam.

AN ACT TO *AMEND* SUBSECTIONS (a) AND (j) OF §1512.3 OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING ADDITIONAL SERIES OF BUSINESS PRIVILEGE TAX BONDS TO FINANCE THE RENOVATION AND/OR NEW CONSTRUCTION OF CERTAIN GUAM MEMORIAL HOSPITAL FACILITIES, AND RELATED MATTERS

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that:

(a) There have been heightened concerns over the condition of existing facilities of the Guam Memorial Hospital ("GMH") as well as the potential funding sources for the renovation or construction of new facilities for GMH. The aged facilities at GMH have posed a challenge in addressing the demands of the community. While technology and methods of diagnosis and treatment continue to change, so, too, does the standard of care.

(b) Despite being the sole public hospital serving a population that has increased from approximately 133,000 in 1991 to over 170,000 today, over this 26-year period only $46.6 million of capital improvements has been made to GMH.

(c) Major capital improvements are necessary in order for the Guam Memorial Hospital Authority ("GMHA") to establish, upgrade and enhance its standard of care and to meet its public mandate of providing quality medical care to the people of Guam.

(d) Such improvements will be instrumental in achieving GMH's strategic focus to shift away from an acute stay model toward an outpatient model that will provide expanded services, better healthcare and, most importantly, better outcomes for the people of Guam.

(e) Such improvements also would greatly enhance operational efficiency and revenue collection, enabling further enhancement to the quality of care delivered by GMH.

(f) The capital improvements require immediate funding that cannot be paid from current revenues, and furthermore, as long-lived assets that will benefit future generations, it is appropriate to pay for these improvements over time.

As a result, it is the intent of *I Liheslaturan Guåhan* to authorize one or more series of Government of Guam Business Privilege Tax Bonds to finance such facilities, including but not limited to, Z wing demolition and replacement, certain IT improvements, as well as related fixtures, furnishings and equipment for the Guam Memorial Hospital.

Section 2. Authorization of Additional Business Privilege Tax Bonds for Guam Memorial Hospital Capital Improvements.

§ 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'låhen Guåhan* is authorized to issue ~~four (4)~~ five (5) 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)~~ Four Hundred Sixty-Eight

Million Seven Hundred Thousand Dollars ($468,700,000) 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 (3) of this subsection (a), and plus such principal amount as may be necessary for the purposes of the refunding of Government of Guam General Obligation Bonds, 2007 Series A and Government of Guam General Obligation Bonds, 2009 Series A, as provided in and subject to the conditions of paragraph (4) 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 2838, 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, renovation of government of Guam or Guam Department of Education-owned school facilities, and/or 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 costs of issuance, and (d) the issuance of the refunding bonds shall not result in any increase in the aggregate amount of the. governments outstanding "public indebtedness" as that term is used in 48 USC 1423a (§11 of the Organic Act of Guam).

(4) For the fourth bond series, to fund an escrow or otherwise to pay principal, interest and redemption price of all or a portion of the Government of Guam General Obligation Bonds, 2007 Series A and the Government of Guam General Obligation Bonds, 2009 Series A, to capitalize interest on the refunding Business Privilege Tax Bonds in an amount to ensure the General Fund is made whole in the current or following fiscal year due to timing of debt service requirements but in an amount not to exceed 1% of refunding proceeds, 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, and (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 costs of issuance.

(5) For the fifth bond series, the aggregate principal of bonds not to exceed one hundred twenty-five million dollars ($125,000,000) for one or more of the following purposes: (i) to finance Z wing demolition and replacement, certain IT system improvements, and any related fixture, furnishing and equipment costs, as well as such other capital improvements approved by the Board of Trustees (the "Board") of the Guam Memorial Hospital Authority ("GMHA"), (ii) to finance capitalized interest with respect to the bonds, and (iii) 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.

~~(5)~~ (6) 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

~~(6)~~ (7) 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).

~~(7) *I Maga'låhen 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 Subsection.~~"

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'låhen 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, 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,

~~and~~ that the fourth series of the bonds shall mature not later than November 15, 2039, shall not be used to fund any new money projects 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 fourth 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 fourth series of the bonds as the discount rate, and that the fifth series of the bonds shall mature not later than thirty-one (31) years after their date of issuance and 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 percent (6.0%) per annum. In addition, the fifth series of the bonds may be comprised of one or more series or sub-series of tax-exempt or taxable bonds.

Section 4. Authorization of Use of Proceeds.

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

"(5) The proceeds from the sale of the fifth bond series *shall* be used and are hereby appropriated to (i) to finance Z wing demolition and replacement, certain IT system improvements, and any related fixture, furnishing and equipment costs, as well as such other capital improvements approved by the Board of GMHA, (ii) to finance capitalized interest with respect to the bonds, and (iii) 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."

Section 5. Authorization of Statutory Lien with Respect to Current and Future Business Privilege Tax Bonds Issued under the Current Indenture.

§ 1512.3(d)(2) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby *amended in its entirety* to read as follows:

(2) Pledge of Business Privilege Tax Revenues. All bonds authorized by Subsection 1512.3 (a) of Article 5, Chapter 1, Title 5, Guam Code Annotated, as may be amended from to time ("BPT Bonds"), shall be secured by a statutory lien on all tax revenues derived from the levy of the first three and three quarters (3.75) percentage points, out of the total number of percentage points levied from time to time, of the business privilege tax levied pursuant to Article 2 of Chapter 26 of Title 11, Guam Code Annotated, or any successor thereto ("Pledged business privilege tax revenues"). This lien shall arise automatically without the need for any action or authorization by *I Maga'låhen Guåhan*, the government of Guam, or any other person or entity. Such lien shall be valid and binding from the time such BPT Bonds are issued. The Pledged business privilege tax revenues shall immediately be subject to such lien, and the lien shall automatically attach to the Pledged business privilege tax revenues and be effective, binding, and enforceable against *I Maga'låhen Guåhan*, the government of Guam, their successors, assignees, and creditors, and all others asserting rights therein, irrespective of whether those parties have notice of the lien and without the need for any physical delivery, recordation, filing, or further act. All Pledged business privilege tax revenues received by the government of Guam or by any trustee, depository or custodian shall be deposited in a separate account entitled the "RAF Revenue Fund." Pledged business privilege tax revenues that are not required to make payments on the BPT Bonds shall automatically, and without the need for any further action, be released from such lien and shall be available for appropriation for any other lawful purpose of the government. The statutory lien

described in this paragraph shall not be subject to Division 9 of Title 13 of the Guam Code Annotated or any successor statute.

In addition to the statutory lien provided for above, all or any part of the Pledged business privilege tax revenues may be pledged, if and to the extent determined by *I Maga'låhen Guåhan*, to secure the payment of any BPT Bonds issued pursuant to that certain Indenture, dated as of December 1, 2011, by and among the government of Guam, Bank of Guam, as trustee, and U.S. Bank National Association, as co-trustee, as amended or supplemented from time to time in accordance with its terms (the "BPT Indenture"). Any such pledge shall be valid and binding against all parties in accordance with its terms and have priority against all parties in accordance with its terms from the time the pledge is made, and property so pledged shall immediately be subject to the lien of the pledge without the need for physical delivery, recordation, filing, or other further act. The pledge shall not be subject to Division 9 of Title 13 of the Guam Code Annotated or any successor statute. The BPT Indenture by which such pledge is created need not be recorded, and shall direct the distribution and disbursement of revenues from the RAF Revenue Fund following their deposit therein. All such taxes to the extent so pledged are hereby continuously appropriated for such purpose. So long as any bonds issued pursuant to the BPT Indenture, including but not limited to those authorized under § 1512.3(a), Title 5, Guam Code Annotated, as may be amended from time to time, remain outstanding, the government of Guam may not reduce the rate of levy and collection of the pledged business privilege tax below three and three quarters percent (3.75%), nor may the government of Guam reduce the services, products or activities to which the pledged business privilege tax applies, nor may the government of Guam upwardly adjust any exception or exclusion to, or otherwise impair, the pledged business privilege tax.

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.