EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor Of Guam

May 15, 2018

GL# 34-18-1884
Speaker Benjamin J.F. Cruz

MAY 15 2018
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Received By: Ellen

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuåttro Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

2018 MAY 15 PM 3:42

Dear Mr. Speaker:

Attached is Bill No. 145-34 (COR) entitled, *"An act to Repeal Section 41004, Subsection (a) (4) and (5) of Article 10, Chapter 4, Title 12 of the Guam Code Annotated . . . Relative to Removing the Requirement the Guam Housing Corporation Appropriate . . . from its Revenues . . . and to Authorizing fees Imposed on the Sale and Transfer of Interest on Real Property . . .,"* which I have VETOED.

Bill 145 increases the current realty conveyance tax for Guam real property sales and transfers from $2.50 for each $1,000.00 received to $11.50 per $1,000. Under this bill, the tax for a typical single-family home worth $250,000 would more than quadruple from the current fee of $625 to $2,875. Similarly, the current tax to a commercial developer looking to develop a $10 million project is $25,000. This bill would increase the tax to $115,000.

A sudden and single 360% percent increase in the realty conveyance tax is overly excessive. Rather than supporting home ownership and local development, Bill 145 makes real property in Guam even more unaffordable than it already is. This is discouraging to local homebuyers and developers seeking to improve our island economy.

Moreover, reports in the media and elsewhere that the realty conveyance tax has "not been updated for the past 40 years" are inaccurate. For many years the realty conveyance tax was $1 per $1,000. Then in May 2007, the Legislature enacted Public Law 29-02 which raised the tax to $5 per $1,000. Several months later in September 2007, Public Law 29-19 cut the $5 tax in half and lowered it to its present rate of $2.50 per $1,000.

Increasing the availability of affordable housing has always been a cornerstone of my administration's strategic plan for the future. Together with the Guam Housing Corporation, the Guam Housing & Urban Renewal Authority and other stakeholders, we have built nearly 3,000 affordable housing units over the past several years. In order to sustain the affordable home initiative program into the future and grow even more opportunities for home ownership and commercial development, we must not excessively tax, and thereby penalize, investments in Guam real property. For these reasons, I have vetoed Bill 145-34.

Senseramente,

EDDIE BAZA CALVO

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN
2018 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 145-34 (COR), "AN ACT TO *REPEAL* § 41004(a)(4) AND (a)(5) OF ARTICLE 10, CHAPTER 4, TITLE 12, AND TO *REPEAL* AND *REENACT* § 20101 OF CHAPTER 20, TITLE 11, ALL OF GUAM CODE ANNOTATED, RELATIVE TO REMOVING THE REQUIREMENT THAT THE GUAM HOUSING CORPORATION APPROPRIATE A SUM CERTAIN FROM ITS REVENUES TO ENSURE A RESERVE BALANCE EVERY FISCAL YEAR, AND TO AUTHORIZING FEES IMPOSED ON THE SALE AND TRANSFER OF INTEREST ON REAL PROPERTY TO BE DEPOSITED IN THE HOUSING TRUST FUND PROGRAM,"** was on the 1st day of May 2018, duly and regularly passed.

Benjamin J.F. Cruz
Speaker

Attested:

Régine Biscoe Lee
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 3RD day of May, 2018, at 11:50 o'clock A.M.

Assistant Staff Officer
Maga'låhi's Office

APPROVED:
VETO
EDWARD J.B. CALVO
I Maga'låhen Guåhan

Date: 5/15/18

Public Law No. _____

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

Bill No. 145-34 (COR)
As corrected by the Prime Sponsor;
and substituted and amended on the Floor.

Introduced by: Telena C. Nelson
FRANK B. AGUON, JR.
William M. Castro
B. J.F. Cruz
James V. Espaldon
Fernando Barcinas Esteves
Régine Biscoe Lee
Tommy Morrison
Louise B. Muña
Dennis G. Rodriguez, Jr.
Joe S. San Agustin
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *REPEAL* § 41004(a)(4) AND (a)(5) OF ARTICLE 10, CHAPTER 4, TITLE 12, AND TO *REPEAL* AND *REENACT* § 20101 OF CHAPTER 20, TITLE 11, ALL OF GUAM CODE ANNOTATED, RELATIVE TO REMOVING THE REQUIREMENT THAT THE GUAM HOUSING CORPORATION APPROPRIATE A SUM CERTAIN FROM ITS REVENUES TO ENSURE A RESERVE BALANCE EVERY FISCAL YEAR, AND TO AUTHORIZING FEES IMPOSED ON THE SALE AND TRANSFER OF INTEREST ON REAL PROPERTY TO BE DEPOSITED IN THE HOUSING TRUST FUND PROGRAM.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the implementation of Public Law 31-166, known as "The Housing Trust Fund

Act," which was enacted in January 2012, recognized the need to support the accessibility and affordability of housing for the residents of Guam, and to assist by providing financial support services for low to moderate income households in order to achieve their dream of obtaining affordable housing. *I Liheslaturan Guåhan* also recognizes that among the primary concerns realized by the Guam Housing Corporation is the fundamental issue of obtaining lending capital for affordable housing, which is generally too expensive or unavailable. The Guam Housing Corporation has a waiting list of prospective first-time home borrowers wherein the number of prospective borrowers exceeds the amount of funding available, and where these qualified borrowers are otherwise unable to obtain mortgage financing elsewhere. *I Liheslaturan Guåhan* has further determined that the Guam Housing Corporation, on its own, is unable to meet the ongoing needs and demands from the funds provided from its annual budget as mandated under Public Law 31-166 without compromising and jeopardizing its current fiscal responsibilities to the Corporation. *I Liheslaturan Guåhan* further finds that the funding for this program, or other authorized programs pursuant to the Housing Trust Fund Act, shall be identified by the Guam Housing Corporation, but subject to legislative approval by *I Liheslaturan Guåhan.*

I Liheslaturan Guåhan acknowledges that by maintaining a viable lending program for Guam's low to moderate income households, the Guam Housing Corporation has sought out sources of lending capital from traditional lending institutions such as Citibank, the Bank of Guam, and the Federal Home Loan Bank of Seattle, and by floating a mortgage revenue bond. All of these lending sources have either been too expensive or require specific conditions creating obstacles under the lending program, resulting in the funds or programs to remain out of reach for many of Guam's residents in achieving their dream of purchasing their first home. *I Liheslaturan Guåhan* also finds that the Guam Housing Corporation

encountered many hurdles arising out of the limited activity from the mortgage revenue bond, and from the restrictive requirements of the Federal Home Loan Bank of Seattle, which strictly prohibited the Corporation from packaging loans that they serviced to Freddie Mac or other prospective investors.

I Liheslaturan Guåhan finds that throughout the nation, there are over six hundred twenty-five (625) successful housing trust fund programs that have implemented the exact program or programs based on the sources of funding identified herein. Funds collected from the funding sources identified herein shall be deposited in the Housing Trust Fund program and may be used as lending capital or for other programs administered by the Guam Housing Corporation in accordance with the Housing Trust Fund's administrative rules and regulations adopted therein.

Therefore, it is the intent of *I Liheslaturan Guåhan* to repeal the provisions of the Housing Trust Fund requiring the Guam Housing Corporation to appropriate Two Hundred Fifty Thousand Dollars ($250,000) from its annual operating revenues to ensure that a reserve balance is maintained at the beginning of each fiscal year. *I Liheslaturan Guåhan* further intends to provide additional sources of funding to qualified first-time homeowners and their families with the assistance of the Housing Trust Fund Program by authorizing the transfer of monies collected on fees imposed on real property conveyed or sold in Guam to be deposited in the Housing Trust Program.

Section 2. § 41004(a)(4) and (a)(5) of Article 10, Chapter 4, Title 12, Guam Code Annotated, are hereby *repealed*.

Section 3. The Compiler of Laws *shall* re-number § 41004(a)(6) of Article 10, Chapter 4, Title 12, Guam Code Annotated, accordingly.

Section 4. § 20101 of Chapter 20, Title 11, Guam Code Annotated, is hereby *repealed* and *reenacted* to read as follows:

"**§ 20101. Realty Conveyance: Amount.**

A fee is established on all conveyances, deeds, instruments, or writings whereby any lands, tenements, or other realty *shall* be sold, granted, transferred, or otherwise conveyed to the purchaser or purchasers, or to any other person or persons designated by such purchaser or purchasers, as follows:

(a) Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00) or fraction thereof on the true consideration or value received for such realty of any transactions less than One Million Dollars ($1,000,000); provided, that in sales of encumbered property, the fee *shall* be collected on the net amount of the consideration after deducting the amount of the encumbrance and remitted to the Land Survey Revolving Fund.

(b) Eleven Dollars and Fifty Cents ($11.50) for each One Thousand Dollars ($1,000.00) or fraction thereof on the true consideration or value received for such realty of all transactions over One Million Dollars ($1,000,000) or greater; provided, that in sales of encumbered property, the fee *shall* be collected on the net amount of the consideration after deducting the amount of the encumbrance. From the collection of these fees, Two Dollars and Fifty Cents ($2.50) for each One Thousand Dollars ($1,000.00) collected on all transactions over One Million Dollars ($1,000,000) and greater *shall* be remitted to the Land Survey Revolving Fund; Nine Dollars ($9.00) for each One Thousand Dollars ($1,000.00) collected on all transactions over One Million Dollars ($1,000,000) and greater *shall* be remitted to the Housing Trust Fund as established under Article 10 of Chapter 4, Title 12, Guam Code Annotated, and used in accordance with the administrative rules and regulations of the Housing Trust Fund program. Payment of these fees, whether conducted by a realtor, private attorney, private parties, or by any other means that real property on Guam may be

transferred, *shall* be collected from the escrow agent or escrow company handling the transaction, and remitted to the Land Survey Revolving Fund and the Guam Housing Corporation Housing Trust Fund program in accordance with this provision; except that such transactions to include deeds of gift, sale of real property sold or transferred in probate actions, Guam Housing Corporation conveyance transactions, like-kind real property exchanges, and affordable housing units as defined by 12 GCA § 4904, *shall* be exempted from this provision."

Section 5. Effective Date. This Act *shall* be effective upon enactment.