UFISINAN I MAGA'HÅGA
OFFICE OF THE GOVERNOR

LOURDES A. LEON GUERRERO
MAGA'HÅGA • GOVERNOR

JOSHUA F. TENORIO
SIGUNDO MAGA'LÅHI • LIEUTENANT GOVERNOR

HAND-DELIVERED

35GL-20-1514
Speaker Tina Rose Muña Barnes

February 5, 2020

FEB 05 2020
Time 4:36 ( )AM (/)PM
Received By: alan

HONORABLE TINA ROSE MUÑA BARNES, Speaker
I Mina'trentai Singko Na Liheslaturan Guåhan
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

2020 FEB -5 PM 4:49

Re: Bill No. 204-35 (COR), "An Act to *Add* a New Article 10 to Chapter 77, Division 2, Title 12, Guam Code Annotated, Relative to Authorizing the Issuance of Business Privilege Tax Credits for Contributions to the Renovation and Improvement of the University of Guam Calvo Field House and Participation of the Guam Basketball Confederation in the 2019-2021 FIBA Asia Cup Competitions"

Dear Madame Speaker:

Nine months have passed since I had the privilege of signing Public Law 35-20. That law was the first of many steps that this Administration has moved with the Legislature to support athletic programs in our community. And just a few days ago, we were able to see its benefits with the opening of the Guam National Tennis Center.

By providing me with Bill No. 204-35, I appreciate that the Legislature found a creative way to allow Guam to support the Guam Basketball Confederation. Our investment of $400,000.00 in tax credits is small compared to the benefits that it will bring to the island.

Lastly, we need to thank the Guam Basketball Confederation for all its efforts throughout the years. It is because of them that Guam has yet another platform to shine. To make sure that we can shine at home three games in 2020 and 2021, I have signed this bill into law as **Public Law No. 35-62**.

Senseremente,

JOSHUA F. TENORIO
Åkto Maga'låhen Guahan
Acting Governor of Guam

Enclosure(s): Bill No. 204-35 (COR) *nka* Public Law 35-62

1514

RICARDO J. BORDALLO GOVERNOR'S COMPLEX · HAGÅTÑA, GUAM 96910
P.O. BOX 2950 · HAGÅTÑA, GUAM 96932
671.472.8931 · 671.472.8932/6

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

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

This is to certify that **Bill No. 204-35 (COR), "AN ACT TO *ADD* A NEW ARTICLE 10 TO CHAPTER 77, DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF BUSINESS PRIVILEGE TAX CREDITS FOR CONTRIBUTIONS TO THE RENOVATION AND IMPROVEMENT OF THE UNIVERSITY OF GUAM CALVO FIELD HOUSE AND PARTICIPATION OF THE GUAM BASKETBALL CONFEDERATION IN THE 2019-2021 FIBA ASIA CUP COMPETITIONS,"** was on the 4th day of February 2020, duly and regularly passed.

Tina Rose Muña Barnes
Speaker

Attested:

Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 4th day of Feb., 2020, at 4:18 o'clock P.M.

Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 2-5-20

Public Law No. [redacted] P.L. 35-62

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 204-35 (COR)
As amended by the Committee on Environment, Revenue and Taxation, and Procurement; and further amended in the Committee of the Whole; and on the Floor.

Introduced by:

Joe S. San Agustin
Tina Rose Muña Barnes
William M. Castro
Clynton E. Ridgell
Jose "Pedo" Terlaje
Régine Biscoe Lee
Kelly Marsh (Taitano), PhD
James C. Moylan
Louise B. Muña
Telena Cruz Nelson
Sabina Flores Perez
Amanda L. Shelton
Telo T. Taitague
Therese M. Terlaje
Mary Camacho Torres

AN ACT TO *ADD* A NEW ARTICLE 10 TO CHAPTER 77, DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF BUSINESS PRIVILEGE TAX CREDITS FOR CONTRIBUTIONS TO THE RENOVATION AND IMPROVEMENT OF THE UNIVERSITY OF GUAM CALVO FIELD HOUSE AND PARTICIPATION OF THE GUAM BASKETBALL CONFEDERATION IN THE 2019-2021 FIBA ASIA CUP COMPETITIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Guam Basketball Confederation is responsible for governing and developing the sport of basketball on Guam, including the Guam National Basketball programs, from the youth to the national teams.

I Liheslaturan Guåhan further finds that the Guam National Men's Basketball Team was a two (2)-time Gold Medal winners at the 2015 and 2019 Pacific Games, and was also named as "The Most Outstanding Team" by the Pacific Games Council both times. The Guam National Men's Basketball Team recorded twenty-four (24) straight wins in FIBA competitions from 2015 to 2019, including the Pacific Games, the Micronesia Games, and the FIBA Asia Cup Pre-Qualifiers. Ranked as #76 in FIBA World Rankings and #14 in Asia, the Guam National Men's Basketball Team holds the highest ranking in the island's history.

I Liheslaturan Guåhan further finds that the Guam National Men's Basketball Team has attained another opportunity to compete in the FIBA Asia Cup Qualifiers slated to take place during three (3) windows of competition in February 2020, November 2020, and February 2021; and Guam also has the opportunity to host three (3) home games against Hong Kong, New Zealand, and Australia. These games will expose Guam's beauty and her people to international media sources, whereby millions of international viewers will learn about Guam.

I Liheslaturan Guåhan further finds that in order to represent Guam effectively, Guam must be prepared to host the games with an approved FIBA facility that includes the required equipment, furnishings, supplies, and other logistical support, to ensure the success of the games, as well as to support the preparation of our Men's National Basketball Team to compete at the highest level of international basketball. FIBA officials have determined that the University of Guam Calvo Field House (UOG Field House) is the only facility with the approved capacity on Guam but it requires significant enhancement and equipment investment

to be able to host the events. The necessary enhancements include: improved lighting in the main court area; locker room and medical room enhancements; new FIBA-approved basketball goals with shot clocks; operating software and hardware for game operations; FIBA Level 1 approved courts; and other requirements.

Therefore, it is the intent of *I Liheslaturan Guåhan* to support the Guam Men's National Basketball Team and the Guam Basketball Confederation in their quest to participate in the FIBA Asia Cup by authorizing tax credits for the preparation and execution of the games on Guam and their participation in international FIBA Asia Cup events.

Section 2. A new Article 10 is hereby *added* to Chapter 77, Division 2, Title 12, Guam Code Annotated, to read:

"ARTICLE 10
TAX CREDITS FOR GUAM'S PARTICIPATION IN THE 2019-2021 FIBA ASIA CUP COMPETITIONS

§ 77901. Credit Against Eligible Taxes.
§ 77902. Limits of Liability.
§ 77903. Fines and Penalties.
§ 77904. Cap on Business Privilege Tax Credits for the Rehabilitation, Improvement, and Participation of the Guam Basketball Confederation at the FIBA Asia Cup.
§ 77905. Filing of Annual Reports.
§ 77906. Guam Economic Development Authority Report.
§ 77907. Rules and Regulations.

§ 77901. Credit Against Eligible Taxes.

(a) To the extent that any business contributes to the Guam Basketball Confederation (GBC) to acquire the required equipment and make enhancements to facilities on Guam, as well as the training and transportation of the Guam Men's

National Team for FIBA Asia Cup competitions from 2019 through 2021, it *shall* be entitled to credit of business privilege taxes that are *not* already pledged for any purpose by Guam law. The basis for contribution to the project *shall* be the actual cost of the contribution plus the cost of transportation from the point of origin to its destination.

(b) Any unused credits *not* used in the current tax period may be carried over into three (3) subsequent tax periods only, and *shall* expire after the third (3rd) tax period has ended.

(c) The total credits allowed under this Article *shall not* exceed the actual dollar amount of the expenditures on the project.

(d) The total credits allowed under this Article *shall not* be transferrable to any other business than the original recipient of the credits.

§ 77902. Limits of Liability.

Unless a contractor, materials supplier, designer or landlord/lessor has direct involvement in the operations of the facilities as a director, officer, manager, employee, representative or agent of the Guam Basketball Confederation, they *shall not* be held liable for any civil or criminal damages or penalties directly or indirectly arising from or related to the operations, any use, or possession of the gymnasium and facilities, *unless* it can be proven that the materials or design work provided were substandard. As the University of Guam Calvo Field House and facilities is a private venture operated by the University of Guam and for use by the Guam Basketball Confederation, the government of Guam *shall not* be liable for any claims or damages arising from the operation of the gymnasium and facilities. The Guam Basketball Confederation, its directors, agents, consultants, employees, or other affiliated person or persons shall make no representation that the government of Guam has any interest in the operation of such gymnasium and facilities.

§ 77903. Fines and Penalties.

To the extent that a company providing materials and services for the project contained herein takes more tax benefits in terms of business privilege taxes than the actual value of the materials or services contributed to the project authorized herein, that company *shall* be required to pay all interest and penalties applicable under Guam law and the Internal Revenue Code for failure to pay taxes, in addition to payment of the actual taxes due. To the extent that any individual, officer, director or other person having interest in a company providing materials or services for the project contained herein knowingly and willingly causes such company to take more tax benefits in terms of business privilege taxes than the actual value of the materials or services contributed to the project, such individual *shall* be guilty of a felony in the third degree punishable by a fine of *not less than* Five Thousand Dollars ($5,000), or one (1) year in prison, or both.

§ 77904. Cap on Business Privilege Tax Credits for the Rehabilitation, Improvement, and Participation of the Guam Basketball Confederation in the FIBA Asia Cup.

(a) The total amount of credits against unpledged business privilege taxes for the GBC's preparation of facilities and participation in the FIBA Asia Cup competitions authorized herein *shall not* exceed Four Hundred Thousand Dollars ($400,000) over a two (2) year period.

(b) If, at the expiration of the two (2) year period authorized pursuant to this Article, there are still unclaimed authorized tax credits, *I Liheslaturan Guåhan* may, in its discretion, extend the eligible period for one (1) additional year.

(c) *I Liheslaturan Guåhan* may, in its discretion, extend the term and modify any part of the program based on future opportunities to host and participate in international competitions and promote teams from Guam.

(d) The Guam Basketball Confederation *shall* create a memorandum of understanding with the University of Guam in order to detail the enhancement and

use of the University of Guam Calvo Field House (UOG Field House) for sports competitions organized by GBC, to include operational plans for equipment being acquired by GBC for use at the UOG Field House.

(e) Equipment, labor, materials, construction, transportation, accommodations and professional services *shall* be competitively procured.

§ 77905. Filing of Annual Reports.

(a) The Guam Basketball Confederation *shall* annually submit a copy of the financial statement required pursuant to § 14102, Chapter 14, Title 18 GCA to the Speaker of *I Liheslaturan Guåhan*, the Public Auditor, and the Administrator of GEDA.

(b) The Guam Basketball Confederation *shall* annually submit a detailed report of the expenses eligible for tax credits incurred to the Speaker of *I Liheslaturan Guåhan*, the Public Auditor, and the Administrator of GEDA.

(c) The Guam Basketball Confederation *shall* ensure that its articles and by-laws are current, and should there be any amendments to such articles and by-laws, it *shall* immediately file such amendments with the Department of Revenue and Taxation.

§ 77906. Guam Economic Development Authority Report.

The Guam Economic Development Authority (GEDA) *shall* submit a report to *I Liheslaturan Guåhan* detailing the impact of the program on the business privilege taxes, sports, and economic activities on Guam. GEDA *shall* also include in its report its monitoring efforts and any other information related to the program. The report *shall* be transmitted to *I Liheslaturan Guåhan* on an annual basis until the tax credit cap pursuant to § 77904 of this Article is exhausted.

§ 77907. Rules and Regulations.

GEDA *shall* implement and monitor the tax credit program authorized pursuant to this Article based on rules and regulations already adopted by GEDA for

previous tax credit programs. Notwithstanding any other provision of law, GEDA *shall* have the authority to incorporate and add rules and regulations necessary to process travel-related tax credits which *shall* use, at a minimum, the Federal Travel Regulation as a basis for such rules and regulations."

Section 3. Effective Date. This Act *shall* be effective upon enactment.

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.