

*I Mina'trentai Sais Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
<b>258-36 (LS)</b> As amended by the Committee on General Government Operations, Appropriations, and Housing; and substituted and further amended on the Floor.	Frank Blas Jr. Telo T. Taitague Telena Cruz Nelson Sabina Flores Perez Tina Rose Muña Barnes Christopher M. Dueñas V. Anthony Ada Joanne Brown Joe S. San Agustin James C. Moylan	AN ACT TO AMEND SECTION 26203 (c) OF ARTICLE 2, CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO INCLUDING HOMEOWNER'S ASSOCIATIONS AS A PART OF THE AUTHORIZED CORPORATIONS, ASSOCIATIONS, OR SOCIETIES EXEMPTED FROM BUSINESS PRIVILEGE TAXES.	2/21/22 8:41 a.m.	2/24/22	Committee on General Government Operations, Appropriations, and Housing	4/7/22 9:00 a.m.	4/13/22 11:55 a.m.	Request: 2/24/22  3/2/22	
	<b>SESSION DATE</b>	<b>TITLE</b>	<b>DATE PASSED</b>	<b>TRANSMITTED</b>	<b>DUE DATE</b>	<b>PUBLIC LAW NO.</b>	<b>DATE SIGNED</b>	<b>NOTES</b>	
	4/22/22	AN ACT TO ADD A NEW § 26203(k)(39) TO ARTICLE 2 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTING HOMEOWNER ASSOCIATION MEMBERSHIP DUES AND COMMON AREA FEES FROM THE BUSINESS PRIVILEGE TAX.	4/29/22	5/2/22	5/13/22	36- 97	5/13/22	Received: 5/13/22 Mess and Comm. Doc. No. 36GL-22-2028	

LOURDES A. LEON GUERRERO  
GOVERNOR



JOSHUA F. TENORIO  
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN  
OFFICE OF THE GOVERNOR OF GUAM

May 13, 2022

Doc Type: 36GL-22-2028  
OFFICE OF THE SPEAKER  
THERESE M. TERLAJE

**HONORABLE THERESE M. TERLAJE**

*Speaker*

*I Mina'trentai Sais Na Liheslaturan Guåhan*

36<sup>th</sup> Guam Legislature  
Guam Congress Building  
163 Chalan Santo Papa  
Hagåtña, Guam 96910

05 13 2022

Time: 4:51pm  
Received: OK

**Re: SUBSTITUTE BILL NO. 258-36 (LS) – AN ACT TO ADD A NEW § 26203(k)(39) TO ARTICLE 2 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTING HOMEOWNER ASSOCIATION MEMBERSHIP DUES AND COMMON AREA FEES FROM THE BUSINESS PRIVILEGE TAX**

*Hafa Adai* Madame Speaker,

Homeowner associations are an important tool used to maintain the homes and common areas of their members, which helps maintain property values, and promotes community engagement and pride. With current strains in Guam's housing market, it is critical to explore and pursue measures to ensure the cost of housing does not rise to a level that hinders our people's ability to afford a place to live. Exempting membership dues and common area fees for homeowner associations from the business privilege tax will empower these associations to maintain and enhance their properties and community without raising the fees that are collected from their members. I hereby sign Substitute Bill No. 258-36 into law as **Public Law 36-97**.

*Senseremente,*

**LOURDES A. LEON GUERRERO**

*Maga'hågan Guåhan*  
Governor of Guam

RECEIVED

MAY 16 2022

8:00 A.M.

COMMITTEE ON RULES

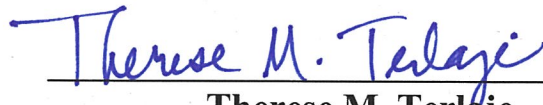
Enclosure: Substitute Bill No. 258-36 (LS) *nka P.L. No. 36-97*

cc via email: *Honorable* Joshua F. Tenorio, *Sigundo Maga'låhen Guåhan*  
Compiler of Laws

*I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN*  
2022 (SECOND) Regular Session

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

This is to certify that **Substitute Bill No. 258-36 (LS), "AN ACT TO ADD A NEW § 26203(k)(39) TO ARTICLE 2 OF CHAPTER 26, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXEMPTING HOMEOWNER ASSOCIATION MEMBERSHIP DUES AND COMMON AREA FEES FROM THE BUSINESS PRIVILEGE TAX,"** was on the 29<sup>th</sup> day of April 2022, duly and regularly passed.




**Therese M. Terlaje**  
**Speaker**

Attested:



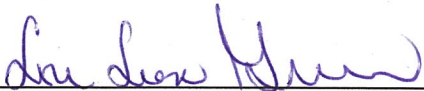
**Amanda L. Shelton**  
**Legislative Secretary**

This Act was received by *I Maga'hågan Guåhan* this 2<sup>nd</sup> day of May,  
2022, at 5:17 o'clock P.M.



**Assistant Staff Officer**  
***Maga'håga's Office***

APPROVED:



**Lourdes A. Leon Guerrero**  
***I Maga'hågan Guåhan***

Date: 5/13/2022

Public Law No. 36-97

RCUD AT CENTRAL FILES  
MAY 3 '22 AMB:48  
2022-16436

Evelyn Fejeran

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2022 (SECOND) Regular Session**

**Bill No. 258-36 (LS)**

As amended by the Committee on General Government Operations,  
Appropriations, and Housing; and substituted  
and further amended on the Floor.

Introduced by:

Frank Blas Jr.  
Telo T. Taitague  
Telena Cruz Nelson  
Sabina Flores Perez  
Tina Rose Muña Barnes  
Christopher M. Dueñas  
V. Anthony Ada  
Joanne Brown  
Joe S. San Agustin  
James C. Moylan  
Clynton E. Ridgell  
Amanda L. Shelton  
Jose "Pedo" Terlaje  
Therese M. Terlaje  
Mary Camacho Torres

**AN ACT TO *ADD* A NEW § 26203(k)(39) TO ARTICLE 2  
OF CHAPTER 26, TITLE 11, GUAM CODE  
ANNOTATED, RELATIVE TO EXEMPTING  
HOMEOWNER ASSOCIATION MEMBERSHIP DUES  
AND COMMON AREA FEES FROM THE BUSINESS  
PRIVILEGE TAX.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that homeowners' associations (HOA) are often organized as not-for-profit bodies  
4 incorporated into the bylaws and articles of incorporation towards operating for the

1 community it serves. HOAs generally have non-profit status by default, and the  
2 purpose of the association is not to make money but to maintain and govern.

3 In 2022, the Department of Revenue and Taxation has compelled HOAs to  
4 pay business privilege taxes (BPT) as most do not fall within the Internal Revenue  
5 Service (IRS) section 501(c)(3) exemption. However, as not-for-profit corporations,  
6 HOAs are eligible for IRS section 501(c)(4) exemptions. Being non-profit often gets  
7 confused with being tax-exempt, which is different and unrelated.

8 An HOA must file taxes as a corporation and may also obtain IRS exemption  
9 through a section 501(c)(4) or elect to file using the provision of IRS Code section  
10 528 to receive certain tax benefits that, in effect, permit it to exclude its exempt  
11 function income from its corporate gross income.

12 *I Liheslaturan Guåhan* finds that membership fees, penalties, and common  
13 area fees paid by the HOA homeowners are integral in maintaining and repairing  
14 improvements, including infrastructure located within the common areas of a  
15 condominium or townhouse community. Regular subdivisions and housing  
16 communities in Guam expect the government of Guam to maintain and repair roads,  
17 sewers, and electrical infrastructure that service their homes.

18 Through this Act, *I Liheslaturan Guåhan* intends to exempt homeowner  
19 association membership dues and common area fees from BPT assessments, as  
20 HOAs are responsible for filing a corporate tax return every year for its operations.  
21 Though an HOA does not function for profit, some activities may result in taxable  
22 income. For example, some communities sell t-shirts or mugs with the community  
23 logo, charge for use of the exercise or clubhouse facilities, or operate a store or  
24 restaurant as part of their amenities. Income from such activities is taxable, and the  
25 HOA is therefore responsible for paying those taxes.

26 **Section 2.** A new § 26203(k)(39) is *added* to Article 2 of Chapter 26, Title  
27 11, Guam Code Annotated, to read:

1                   “(39) Amounts received from homeowner association membership  
2                   dues and common area fees.”

3                   **Section 3. Severability.** If any portion of this Act is for any reason held  
4                   invalid or unconstitutional by any court of competent jurisdiction, such portion shall  
5                   be deemed a separate provision and shall not affect the validity of the remaining  
6                   portions of the Act.

7                   **Section 4. Effective Date.** This Act shall be effective upon enactment.