

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

NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
<b>Senator V. Anthony Ada</b>	✓					
<b>Senator Frank Blas Jr.</b>	✓					
<b>Senator Joanne Brown</b>	✓					
<b>Senator Christopher M. Dueñas</b>	✓					
<b>Senator James C. Moylan</b>	✓					
<b>Vice Speaker Tina Rose Muña Barnes</b>	✓					
<b>Senator Telena Cruz Nelson</b>		✓				
<b>Senator Sabina Flores Perez</b>	✓					
<b>Senator Clynton E. Ridgell</b>	✓					
<b>Senator Joe S. San Agustin</b>	✓					
<b>Senator Amanda L. Shelton</b>	✓					
<b>Senator Telo T. Taitague</b>	✓					
<b>Senator Jose "Pedro" Terlaje</b>	✓					
<b>Speaker Therese M. Terlaje</b>	✓					
<b>Senator Mary Camacho Torres</b>	✓					

Speaker Antonio R. Unpingco Legislative Session Hall  
 Guam Congress Building  
 December 16, 2022

**TOTAL**

**14**

**1**

Aye

Nay


Not  
Voting/  
Abstained

Out  
During  
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:

  
 \_\_\_\_\_  
 RENNAE V. C. MENO  
 Clerk of the Legislature

I = Pass

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

**Bill No. 306-36 (COR)**

As amended by the Committee on Economic  
Development, Agriculture, Power and Energy Utilities,  
and the Arts.

\*

Introduced by:

Joe S. San Agustin  
Tina Rose Muña Barnes  
Christopher M. Dueñas  
James C. Moylan

**AN ACT TO AMEND §§ 58104(k) AND 58136 OF ARTICLE  
1, AND TO ADD A NEW ARTICLE 3 TO CHAPTER 58 OF  
TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO  
THE ISSUANCE OF QUALIFYING CERTIFICATES TO  
CAPTIVE INSURANCE COMPANIES WHO WHOLLY  
UNDERWRITE INSURANCE RISKS OUTSIDE OF  
GUAM.**

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

2        **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Qualifying Certificate (QC) program has been a vital catalyst for Guam’s  
4 economic development over the last five (5) decades, with the Guam Economic  
5 Development Authority (GEDA) having great success in the promotion and  
6 implementation of the program. *I Liheslaturan Guåhan* further finds that the  
7 Twenty-third (23<sup>rd</sup>) Guam Legislature introduced and passed Public Law 23-109  
8 which authorized the issuance of QCs to captive insurance and other domestic  
9 insurance companies.

1            *I Liheslaturan Guåhan* notes that the establishment of a vibrant captive  
2 insurance industry has the potential to attract not only millions of dollars to Guam,  
3 but is also a means to foster the development of an expanded financial services  
4 industry in Guam, which will elevate Guam’s presence in the international financial  
5 community. By allowing international captive insurance companies to domicile and  
6 take advantage of the QC tax benefits in Guam, the government of Guam has the  
7 potential to reap significant economic benefits.

8            Lastly, *I Liheslaturan Guåhan* further finds that Guam already has significant  
9 regulatory framework to properly monitor and regulate the captive insurance  
10 industry, as Guam has had a captive insurance law for over two (2) decades. Efforts  
11 made by *I Liheslatura* to enhance the QC program with regards to captive insurance  
12 companies who wholly underwrite insurance risks outside of Guam will increase the  
13 viability and attractiveness of the program to international corporations looking to  
14 establish a captive insurance company. Enhancing the ability for Guam to attract  
15 new captive insurance companies has the potential to bring significant new  
16 investment dollars into Guam.

17            Therefore, it is the intent of *I Liheslaturan Guåhan* to amend §§ 58104(k) and  
18 58136 of Article 1, and add a new Article 3 to Chapter 58 of Title 12, Guam Code  
19 Annotated, to establish a distinct Special QC specifically for captive insurers.

20            **Section 2.** § 58104(k) of Article 1, Chapter 58, Title 12, Guam Code  
21 Annotated, is hereby *amended* to read:

22            “(k) insurance issuance, either by commercial insurers, reinsurers, or  
23 captive insurers which meet the requirements of Title 22, GCA, Chapter 15,  
24 Article 3. Applications for a Qualifying Certificate for captive insurers who  
25 wholly underwrite insurance risks outside of Guam are subject to the  
26 requirements of Article 3 of this Chapter;”

1           **Section 3.** § 58136 of Article 1, Chapter 58, Title 12, Guam Code  
2 Annotated, is hereby *amended* to read:

3                   **“§ 58136. Abatement of Tax.**

4                   When the return for the abated tax is accompanied by a certificate of  
5 compliance, then the actual payment of the tax in question to the government  
6 of Guam shall not be required, and upon review of the tax return, the Tax  
7 Commissioner of Guam shall, within one hundred twenty (120) days from  
8 receipt of said tax return, furnish the taxpayer a certification confirming the  
9 nature and amount of the tax abated.”

10           **Section 4.** A new Article 3 is hereby *added* to Chapter 58 of Title 12, Guam  
11 Code Annotated, to read:

12                                   **“ARTICLE 3**

13                                   **SPECIAL QUALIFYING CERTIFICATE; CAPTIVE INSURANCE**  
14                                   **COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS**  
15                                   **OUTSIDE OF GUAM**

16           § 58301. Special Qualifying Certificate; Captive Insurance Companies  
17                                   Who Wholly Underwrite Insurance Risks Outside of Guam  
18                                   Established.

19           § 58302. Definitions.

20           § 58303. Special Qualifying Certificate for Captive Insurance Companies  
21                                   Who Wholly Underwrite Insurance Risks Outside of Guam  
22                                   Defined.

23           § 58304. Application and Compliance.

24           **§ 58301. Special Qualifying Certificate; Captive Insurance**  
25                                   **Companies Who Wholly Underwrite Insurance Risks**  
26                                   **Outside of Guam Established.**

1           There is hereby established a Special Qualifying Certificate (QC) for Captive  
2 Insurance Companies who wholly underwrite insurance risks outside of Guam which  
3 shall entitle the Beneficiary to tax rebates and tax abatements in return for meeting  
4 the conditions and requirements prescribed by the Guam Economic Development  
5 Authority (GEDA) in this Article, in the Qualifying Certificate, and in any other part  
6 of this Chapter 58 deemed necessary and appropriate by GEDA. Any captive  
7 insurance company that underwrites insurance risks in Guam is ineligible for the  
8 Special Qualifying Certificate authorized in this Article, and must apply for a QC  
9 pursuant to Article 1 of this Chapter.

10           **§ 58302.    Definitions.**

11           For purposes of this Article 3, the following definitions will apply:

12           (a)    Authority: The Guam Economic Development Authority  
13           (GEDA);

14           (b)    Captive Insurance Company: For purposes of this Article and  
15           unless the context otherwise requires, captive insurance company means any  
16           entity formed under Chapter 23, Division 2, Title 22, Guam Code Annotated  
17           (the Captive Insurance Law), and other applicable Guam laws, rules,  
18           regulations, and requirements;

19           (c)    Commissioner: The Commissioner of Banking and Insurance;

20           (d)    Beneficiary: Entities issued a Special QC pursuant to this Article.

21           **§ 58303.    Special Qualifying Certificate for Captive Insurance**  
22 **Companies Who Wholly Underwrite Insurance Risks Outside of Guam**  
23 **Defined.**

24           The Special Qualifying Certificate (QC) for Captive Insurance Companies  
25 who wholly underwrite insurance risks outside of Guam is a contract valid for a  
26 given period, executed by the Governor of Guam based upon the recommendation  
27 of GEDA. Only duly formed captive insurance companies may become a

1 Beneficiary of this Special QC program. The QC, once issued and unless suspended,  
2 rescinded or revoked, shall constitute conclusive evidence of entitlement to the tax  
3 rebates and abatements set forth on its face.

4 (a) Captive Insurer Tax Rebate and Abatement. There shall be  
5 allowed to each Beneficiary a tax rebate and abatement for the following  
6 taxes:

7 (1) Corporate Income Tax:

8 A rebate of one hundred percent (100%) of all income tax paid  
9 to the government of Guam by a Beneficiary on all income received  
10 from underwriting insurance risks outside of Guam, including all  
11 income derived from investing funds derived from operating an  
12 insurance underwriting business on Guam for a period of twenty (20)  
13 consecutive years from the effective date of a Qualifying Certificate.

14 (2) A Rebate on Dividends to Shareholders of Qualified  
15 Insurance Underwriters:

16 A rebate of one hundred percent (100%) of the income tax  
17 withheld from the shareholders of an insurance underwriting business  
18 on the dividends from such business may be issued for a period of  
19 twenty (20) consecutive years from the effective date of the Qualifying  
20 Certificate therefor; provided, that:

21 (A) the insurance underwriting business paying the  
22 dividends is the Beneficiary of a Qualifying Certificate;

23 (B) the dividends are paid from the insurance or  
24 investment earnings of such business as identified in its  
25 Qualifying Certificate, which dividends were received, on a cash  
26 basis, during the original or an extended period of the Qualifying  
27 Certificate; and

1 (C) the dividends were subject to a withholding tax  
2 thereon pursuant to those provisions of the Territorial Income  
3 Tax Law requiring the withholding as income tax thereon of a  
4 fixed percentage of any dividends paid to nonresidents of Guam.

5 If the shareholder is a resident of Guam, then such  
6 shareholder may be granted a Qualifying Certificate on dividends  
7 pursuant to § 58130 of Article 1 of this Chapter.

8 (3) Business Privilege Tax (BPT):

9 All taxes now levied by virtue of Article 2, Chapter 26, Title 11,  
10 Guam Code Annotated, known as business privilege taxes, shall be  
11 abated for a period of twenty (20) years from the effective date of the  
12 Qualifying Certificates therefor, for those gross receipts derived from  
13 underwriting insurance risks outside of Guam, including gross receipts  
14 from investing funds derived from operating an insurance underwriting  
15 business on Guam by a Captive Insurance Company that has qualified  
16 and continues to qualify for a Qualifying Certificate.

17 (b) No captive insurer shall be eligible for any other Qualifying  
18 Certificate tax rebate, abatement, or exemption not authorized in this Article.

19 **§ 58304. Application and Compliance.**

20 (a) Applications for such Special QCs shall be on a form prescribed by  
21 GEDA, with all necessary supporting documentation submitted and appropriate fees  
22 first being duly paid prior to the acceptance of any application. GEDA shall use  
23 applicable existing laws, rules, regulations, and standard operating procedures in its  
24 dispensing and analysis of all applications under this Special QC program; however,  
25 certain provisions of this Chapter 58 or successor laws shall not apply to any entity  
26 applying for a Special Qualifying Certificate pursuant to this Chapter, specifically  
27 §§ 58105.1, 58116, 58117, 58118, 58119, and 58124 of Article 1.

1           (b) All Beneficiaries shall comply with all requirements as set forth by the  
2 Commissioner of Banking and Insurance and all applicable laws of Guam. In  
3 addition, GEDA may apply any compliance requirements contained in this Chapter  
4 as it deems necessary and applicable. Such compliance requirements shall be  
5 included in each Special QC as executed by the Governor of Guam.”

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

7           **Section 6. Severability.** If any provision of this Act or its application to any  
8 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
9 not affect other provisions or applications of this Act that can be given effect without  
10 the invalid provision or application, and to this end the provisions of this Act are  
11 severable.