

MINA' TRENTAI TRES NA LIHESLATURAN GUAHAN
2015 (FIRST) Regular Session

Bill No. SD-33 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

AN ACT TO AMEND SUNSECTIONS (a) AND (j) OF §1512.3 OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE REFUNDING OF GOVERNMENT OF GUAM GENERAL OBLIGATION BONDS, 2007 SERIES A AND GOVERNMENT OF GUAM GENERAL OBLIGATION BOND, 2009 SERIES A AND RELATED MATTERS INCLUDING THE APPLICATION OF SAVINGS TO BE ARCHIVED THEREFROM

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that under current market conditions, all or a portion of the outstanding Government of Guam General Obligation Bonds, 2007 Series A (the “2007 Bonds”) and all or a portion of the outstanding Government of Guam General Obligation Bonds, 2009 Series A (the “2009 Bonds”), can be refunded with Government of Guam Business Privilege Tax Bonds, with significant savings for the General Fund.

It is the intent of *I Liheslaturan Guåhan* to authorize a transaction that would assist in facilitating the financial sustainability and flexibility of the Government of Guam by taking advantage of present favorable market conditions.

It is further the intent of *I Liheslaturan Guåhan* that there will be no borrowing for new capital improvements with the refunding of the 2007 Bonds and the 2009 Bonds, but rather that the projected net cash flow savings that would be achieved from the refunding of the 2007 Bonds and the 2009 Bonds be

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1 appropriated from the General Fund and applied toward capital improvements
2 relating to the Guam Memorial Hospital, in the form of the construction of a new
3 facility.

4 **Section 2. Authorization of Refunding of General Obligation Bonds,**
5 **2007 Series A and General Obligation Bonds, 2009 Series A.**

6 § 1512.3(a) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby
7 *amended* to read as follows:

8 “(a) **Authorization of Issuance of Bonds.** *I Maga’lahen Guåhan* is
9 authorized to issue ~~three (3)~~ four (4) series of bonds of the government of
10 Guam, as provided in this Section, in an aggregate principal amount *not to*
11 *exceed* Three Hundred Forty-Three Million Seven Hundred Thousand
12 Dollars (\$343,700,000) plus such principal amount as may be necessary for
13 the purposes of the refunding of Government of Guam General Obligation
14 Bonds, 1993 Series A, as provided in and subject to the conditions of
15 paragraph ~~(2)(B)(iv)~~ (3) of this subsection (a), and plus such principal
16 amount as may be necessary for the purposes of the refunding of
17 Government of Guam General Obligation Bonds, 2007 Series A and
18 Government of Guam General Obligation Bonds, 2009 Series A, as provided
19 in and subject to the conditions of paragraph (4) of this subsection (a), to
20 provide the following:

21 (1) For the first bond series, in the following order of
22 priority:

23 (A) up to One Hundred Ninety-Eight Million Dollars
24 (\$198,000,000) for payment of unpaid income tax refunds plus
25 interest to include for 2010 and prior;

26 (i) Set-aside for Tax Refunds for Humanitarian
27 Purposes. Of the total amount of proceeds available to

1 issue tax refund payments, the sum of Twenty Million
2 Dollars (\$20,000,000) *shall* be set aside and appropriated
3 to the Department of Revenue and Taxation for the
4 purpose of paying tax refunds for humanitarian purposes.
5 The provisions of this Section *shall* supplement other
6 guiding provisions of law regarding the processing of
7 emergency tax refund payments. Requests submitted for
8 the following humanitarian purposes *shall* qualify to be
9 processed from this Twenty Million Dollars
10 (\$20,000,000) set-aside:

11 (aa) off-island medical treatment, inclusive of the
12 need to purchase medication; or death of a family
13 member, within two (2) degrees of consanguinity;

14 (bb) delinquent billing payments owed to the
15 Guam Power Authority, the Guam Waterworks
16 Authority, the Guam Housing and Urban Renewal
17 Authority, and the Judiciary of Guam, which have
18 become delinquent due to financial hardships;

19 (cc) delinquent loan payments owed to the Guam
20 Housing and Urban Renewal Authority, which have
21 become delinquent due to financial hardships; and

22 (dd) delinquent loan payments owed to legally
23 qualified and licensed lenders, which have become
24 delinquent due to financial hardships. For the
25 purposes of this Section, a request for tax refunds
26 *shall* be submitted by the taxpayer to the Director of

1 Revenue and Taxation. All such requests are subject
2 to the review and approval of the Director.

3 (ii) Twenty Million Dollars (\$20,000,000) for the
4 payment of cost of living allowance to certain retired
5 government of Guam employees pursuant to the case
6 known as *Rios v. Camacho*;

7 (iii) Twenty-Six Million Four Hundred
8 Thousand Dollars (\$26,400,000) for payments owed to
9 the Government of Guam Retirement Fund for the Guam
10 Department of Education and the Guam Memorial
11 Hospital Authority principal and interest pursuant to
12 Public Law 28-38, as amended by Public Law 31-74; and

13 (iv) if no alternate source of funding is available,
14 for the payment of health insurance premiums for Fiscal
15 Year 2012.

16 (2) For the second bond series:

17 (A) no less than Twenty-Five Million One Hundred
18 Thousand Dollars (\$25,100,000) for payments owed to the
19 Government of Guam Retirement Fund for the Guam
20 Department of Education, the Guam Memorial Hospital
21 Authority, and the *Health Insurance Bailout Agreement of*
22 *FY2011* principal and interest pursuant to Public Law 28-38, as
23 amended by Public Law 31-74, such that the sums owed to the
24 GGRF by the government of Guam pursuant to Public Law
25 2838, as amended, *shall* be extinguished in its entirety;

26 (B) the remaining balance of bond proceeds such that
27 the debt to the GGRF identified in §1512.3(a)(2)(A) of Article

1 5, Chapter 1, Title 5, Guam Code Annotated is paid, *shall* be
2 used, in any amount, for any of the following:

3 (i) the design, construction, re-construction,
4 rehabilitation, maintenance, renovation of government of
5 Guam or Guam Department of Education-owned school
6 facilities, and/or procurement and preventive
7 maintenance of school buses. A “School Facility” *shall*
8 mean school campus facilities including any structure or
9 structures, together with all ancillary facilities, including
10 parking facilities, utilities, infrastructure and equipment
11 associated with providing the educational or related
12 services required by the Guam Department of Education
13 and may include an existing school facility being
14 rehabilitated; and/or

15 (ii) the payment of unpaid income tax refunds for tax
16 year 2011; and/or

17 (iii) if no alternate source of funding is available, the
18 payment of health insurance premiums for Fiscal Year
19 2012;

20 (3) For the third bond series, to fund an escrow to pay principal,
21 interest and redemption price of Government of Guam General
22 Obligation Bonds, 1993 Series A and to pay expenses relating to the
23 authorization, sale and issuance of the bonds, including, without
24 limitation, printing costs, costs of reproducing documents, credit
25 enhancement fees, underwriting, legal, feasibility, financial advisory
26 and accounting fees and charges, fees paid to banks *or* other financial
27 institutions providing credit enhancement, costs of credit ratings and

1 other costs, charges and fees in connection with the issuance, sale and
2 delivery of the bonds; *provided, however*, that bonds may not be
3 issued for this purpose unless (a) all obligation of the government to
4 pay debt service on, and the redemption price of, the bonds being
5 refunded shall be discharged concurrently with the issuance of the
6 refunding bonds, (b) thereafter, the refunded bonds shall be payable
7 solely from and secured solely by the escrow established for such
8 purpose, (c) the present value of debt service on the refunding bonds
9 shall be at least two percent (2%) less than the present value of debt
10 service on the bonds being refunded, inclusive of all fees, for bond
11 counsel and bond underwriters and other costs of issuance, and (d) the
12 issuance of the refunding bonds shall not result in any increase in the
13 aggregate amount of the governments outstanding “public
14 indebtedness” as that term is used in 48 USC 1423a (§11 of the
15 Organic Act of Guam).

16 (4) For the fourth bond series, to fund an escrow or
17 otherwise to pay principal, interest and redemption price of all or a
18 portion of the Government of Guam General Obligation Bonds, 2007
19 Series A and the Government of Guam General Obligation Bonds,
20 2009 Series A, to capitalize interest on the refunding Business
21 Privilege Tax Bonds in an amount to ensure the General Fund is made
22 whole in the current or following fiscal year due to timing of debt
23 service requirements but in an amount not to exceed 1% of refunding
24 proceeds, and to pay expenses relating to the authorization, sale and
25 issuance of the bonds, including without limitation, printing costs,
26 costs of reproducing documents, credit enhancement fees,
27 underwriting, legal, feasibility, financial advisory and accounting fees

1 and charges, fees paid to banks or other financial institutions
2 providing credit enhancement, costs of credit ratings and other costs,
3 charges and fees in connection with the issuance, sale and delivery of
4 the bonds; provided, however, that bonds may not be issued for this
5 purpose unless (a) all obligation of the government to pay debt service
6 on, and the redemption price of, the bonds being refunded shall be
7 discharged concurrently with the issuance of the refunding bonds, (b)
8 thereafter, the refunded bonds shall be payable solely from and
9 secured solely by the escrow established for such purpose, and (c) the
10 present value of debt service on the refunding bonds shall be at least
11 two percent (2%) less than the present value of debt service on the
12 bonds being refunded, inclusive of all fees, for bond counsel and bond
13 underwriters and other costs of issuance.

14
15 (4) (5) For the first and second bond series, such amount as
16 may be needed to capitalize and pay from bond proceeds interest on
17 the bonds due, accruing or required to be set aside in Fiscal Years
18 2012 and 2013; and

19 (5) (6) expenses incurred in connection with the issuance of
20 such bonds not already included in an existing appropriation for or the
21 regular budget of any government agency or instrumentality or public
22 corporation providing any service in connection with the issuance of
23 such bonds; *provided, however*, that bonds may not be issued in an
24 amount that would cause a violation of the debt limitation provisions
25 of 48 USC 1423a (§11 of the Organic Act of Guam).

26 (6) ~~I Maga;lalen Guahan shall utilize the 2011 Real Proerty~~
27 ~~Tax Assessment Roll as certified by the Board of Equalization in~~

1 ~~accordance with § 24218 of Chapter 24, Title 11, Guam Code~~
2 ~~Annotated, in calculating the amount available for future debt~~
3 ~~obligation under Debt Limit (Ceiling) for the bond issuance~~
4 ~~authorized in this §1512.3(a) of Article 5 of Chapter 1 of Title 5,~~
5 ~~Guam Code Annotated.”~~

6 **Section 3. Terms and Conditions of Bonds.**

7 § 1512.3(b) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby
8 amended to read as follows:

9 “(b) **Terms and Conditions Determined by Certificate or Indenture.** The
10 terms and conditions of the bonds shall be as approved by *I Liheslaturan Guåhan*,
11 and as determined by *I Maga'lahen Guåhan* by the execution of a certificate or
12 indenture authorizing the issuance of the bonds, prior to the issuance of the bonds;
13 *provided, however,* that such terms and conditions shall be consistent with this
14 Section, that the first and second series of the bonds shall mature *not* later than
15 thirty-five (35) years after their date of issuance, shall bear interest at such rates
16 and be sold for such price or prices as shall result in a yield to the bondholders that
17 does not exceed six and one half percent (6.5%) per annum, shall require interest
18 only payments for Fiscal Years 2012, 2013 and 2014 and shall not require bond
19 principal payments until after such Fiscal Years, that the third series of the bonds
20 shall mature not later than December 31, 2018, and shall bear interest at such rates
21 and be sold for such price or prices as shall result in the present value of debt
22 service on the third series of the bonds being at least two percent (2%) less than the
23 present value of debt service on the bonds being refunded, using the yield on the
24 third series of the bonds as the discount rate, and that the fourth series of the bonds
25 shall mature not later than November 15, 2039, shall not be used for to fund any
26 new money projects and shall bear interest at such rates and be sold for such price
27 or prices as shall result in either in the present value of debt service on the fourth

1 series of the bonds being at least two percent (2%) less than the present value of
2 debt service on the bonds being refunded, using the yield on the fourth series of the
3 bonds as the discount rate.

4 **Section 4. Use of Anticipated Savings.**

5 A new sub item (i) is hereby added to § 1512.3(b) of Article 5, Chapter 1,
6 Title 5, Guam Code Annotated to read as follows:

7 “(i) Use of Funds saved from Fourth Series. The savings achieved by the
8 Government of Guam to the General Fund at or above the target referenced in §
9 1512.3(b) due to the refunding of the Government of Guam General Obligation
10 Bonds, 2007 Series A and the Government of Guam General Obligation Bonds,
11 2009 Series A by the fourth series of bonds, an amount equal to the resulting
12 reduction in debt service payments relating to the refunded Government of Guam
13 General Obligation Bonds, 2007 Series A and the Government of Guam General
14 Obligation Bonds, 2009 Series A, shall, to the extent practical, be allocated and
15 appropriated from the General Fund and applied toward capital improvements
16 relating to the Guam Memorial Hospital, in the form the construction of a new
17 facility. The Bureau of Budget and Management Research (BBMR) shall be tasked
18 to track and manage the savings achieved by this fourth series refunding and
19 allocate such savings pursuant to § 1512.3(b)(i) and reflect the savings and
20 allocation in the executive branch submission of its budget request to I
21 Liheslaturan Guåhan each fiscal year. The funds allocated herein shall be in
22 addition to the annual budget allocation and budgeted appropriated levels provided
23 to the Guam Memorial Hospital.”

24 **Section 5. Authorization of Use of Proceeds for Refunding.**

25 A new subparagraph (4) is hereby added to § 1512.3(j) of Article 5, Chapter
26 1, Title 5, Guam Code Annotated, as follows:

1 “(4) The proceeds from the sale of the fourth bond series shall be used and
2 are hereby appropriated to (i) fund an escrow to pay principal, interest and
3 redemption price of Government of Guam General Obligation Bonds, 2007 Series
4 A and Government of Guam General Obligation Bonds, 2009 Series A or
5 otherwise to pay in full such 2007 Bonds and 2009 Bonds; (ii) to capitalize interest
6 on the refunding Business Privilege Tax Bonds in an amount to ensure the General
7 Fund is made whole in the current or following fiscal year due to timing of debt
8 service requirements but in an amount not to exceed 1% of refunding proceeds,
9 and (iii) pay expenses relating to the authorization, sale and issuance of the bonds
10 including, without limitation, printing costs, costs of reproducing documents, credit
11 enhancement fees, underwriting, legal, feasibility, financial advisory and
12 accounting fees and charges, fees paid to banks or other financial institutions
13 providing credit enhancement, costs of credit ratings and other costs, charges and
14 fees in connection with the issuance, sale and delivery of the bonds.”

15 **Section 6. Severability.** If a provision of this act or its application to any
16 person or circumstance is held invalid, the invalidity does not affect other
17 provisions or applications of the act that can be given effect without the invalid
18 provision or application, and to this end the provisions of this act are severable.

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