


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

Bill No. 148 -33 (LS)

Introduced by:

Dennis G. Rodriguez, Jr. 

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AN ACT TO AMEND SUBSECTIONS (a), (b) 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 BONDS, 2009 SERIES A AND RELATED MATTERS, INCLUDING THE APPLICATION OF SAVINGS TO BE ACHIEVED THEREFROM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that under current market conditions, all or a portion of the outstanding
4 Government of Guam General Obligation Bonds, 2007 Series A (2007 Bonds) and
5 all or a portion of the outstanding Government of Guam General Obligation Bonds,
6 2009 Series A (2009 Bonds) can be refunded with Government of Guam Business
7 Privilege Tax Bonds, with significant savings for the General Fund.

1 Therefore, it is the intent of *I Liheslaturan Guåhan* to authorize a transaction
2 that would assist in facilitating the financial sustainability and flexibility of the
3 government of Guam by taking advantage of present favorable market conditions.

4 It is, further, the intent of *I Liheslaturan Guåhan* that there will be no
5 borrowing for new capital improvements with the refunding of the 2007 Bonds and
6 the 2009 Bonds, but rather that the projected net cash flow savings that would be
7 achieved from the refunding of the 2007 Bonds and the 2009 Bonds be
8 appropriated from the General Fund and applied toward capital improvements
9 relating to the Guam Memorial Hospital Authority and other health related matters.

10 **Section 2. Authorization of Refunding of General Obligation Bonds,**
11 **2007 Series A and General Obligation Bonds, 2009 Series A.**

12 § 1512.3(a) of Article 5, Chapter 1, Title 5, Guam Code Annotated, is
13 hereby *amended* to read as follows:

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

- 26 (1) For the first bond series, in the following order of
27 priority:

1 (A) up to One Hundred Ninety-Eight Million Dollars
2 (\$198,000,000) for payment of unpaid income tax refunds plus
3 interest to include for 2010 and prior;

4 (i) Set-aside for Tax Refunds for Humanitarian
5 Purposes. Of the total amount of proceeds available to
6 issue tax refund payments, the sum of Twenty Million
7 Dollars (\$20,000,000) *shall* be set aside and appropriated
8 to the Department of Revenue and Taxation for the
9 purpose of paying tax refunds for humanitarian purposes.
10 The provisions of this Section *shall* supplement other
11 guiding provisions of law regarding the processing of
12 emergency tax refund payments. Requests submitted for
13 the following humanitarian purposes *shall* qualify to be
14 processed from this Twenty Million Dollars
15 (\$20,000,000) set-aside:

16 (aa) off-island medical treatment,
17 inclusive of the need to purchase medication; or
18 death of a family member, within two (2) degrees
19 of consanguinity;

20 (bb) delinquent billing payments owed to
21 the Guam Power Authority, the Guam Waterworks
22 Authority, the Guam Housing and Urban Renewal
23 Authority, and the Judiciary of Guam, which have
24 become delinquent due to financial hardships;

25 (cc) delinquent loan payments owed to the
26 Guam Housing and Urban Renewal Authority,

1 which have become delinquent due to financial
2 hardships; and

3 (dd) delinquent loan payments owed to
4 legally qualified and licensed lenders, which have
5 become delinquent due to financial hardships. For
6 the purposes of this Section, a request for tax
7 refunds *shall* be submitted by the taxpayer to the
8 Director of Revenue and Taxation. All such
9 requests are subject to the review and approval of
10 the Director.

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

15 (iii) Twenty-Six Million Four Hundred
16 Thousand Dollars (\$26,400,000) for payments owed to
17 the Government of Guam Retirement Fund for the Guam
18 Department of Education and the Guam Memorial
19 Hospital Authority principal and interest pursuant to
20 Public Law 28-38, as amended by Public Law 31-74; and

21 (iv) if no alternate source of funding is available,
22 for the payment of health insurance premiums for Fiscal
23 Year 2012.

24 (2) For the second bond series:

25 (A) no less than Twenty-Five Million One Hundred
26 Thousand Dollars (\$25,100,000) for payments owed to the
27 Government of Guam Retirement Fund for the Guam

1 Department of Education, the Guam Memorial Hospital
2 Authority, and the Health Insurance Bailout Agreement of FY
3 2011 principal and interest pursuant to Public Law 28-38, as
4 amended by Public Law 31-74, such that the sums owed to the
5 GGRF by the government of Guam pursuant to Public Law 28-
6 38, as amended, *shall* be extinguished in its entirety;

7 (B) the remaining balance of bond proceeds such that
8 the debt to the GGRF identified in § 1512.3(a)(2)(A) of Article
9 5, Chapter 1, Title 5, Guam Code Annotated, is paid, *shall* be
10 used, in any amount, for any of the following:

11 (i) the design, construction, re-construction,
12 rehabilitation, maintenance, renovation of government of
13 Guam or Guam Department of Education-owned school
14 facilities, and/or the procurement and preventive
15 maintenance of school buses. A “school facility” *shall*
16 mean school campus facilities, including any structure or
17 structures, together with all ancillary facilities, including
18 parking facilities, utilities, infrastructure and equipment
19 associated with providing the educational or related
20 services required by the Guam Department of Education,
21 and may include an existing school facility being
22 rehabilitated; and/or

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

25 (iii) if no alternate source of funding is available,
26 the payment of health insurance premiums for Fiscal
27 Year 2012.

1 (3) For the third bond series, to fund an escrow to pay
2 principal, interest and redemption price of Government of Guam
3 General Obligation Bonds, 1993 Series A and to pay expenses relating
4 to the authorization, sale and issuance of the bonds, including, without
5 limitation, printing costs, costs of reproducing documents, credit
6 enhancement fees, underwriting, legal, feasibility, financial advisory
7 and accounting fees and charges, fees paid to banks or other financial
8 institutions providing credit enhancement, costs of credit ratings and
9 other costs, charges and fees in connection with the issuance, sale and
10 delivery of the bonds; provided, however, that bonds may *not* be
11 issued for this purpose unless (A) all obligation of the government to
12 pay debt service on, and the redemption price of, the bonds being
13 refunded shall be discharged concurrently with the issuance of the
14 refunding bonds; (B) thereafter, the refunded bonds *shall* be payable
15 solely from and secured solely by the escrow established for such
16 purpose; (C) the present value of debt service on the refunding bonds
17 *shall* be at least two percent (2%) less than the present value of debt
18 service on the bonds being refunded, inclusive of all fees, for bond
19 counsel and bond underwriters and other costs of issuance; and (D)
20 the issuance of the refunding bonds *shall not* result in any increase in
21 the aggregate amount of the government's outstanding "public
22 indebtedness" as that term is used in 48 USC § 1423a (§ 11 of the
23 Organic Act of Guam).

24 (4) For the fourth bond series, to fund an escrow or
25 otherwise to pay principal, interest and redemption price of all or a
26 portion of the Government of Guam General Obligation Bonds, 2007
27 Series A and the Government of Guam General Obligation Bonds,

1 2009 Series A, to capitalize interest on the refunding Business
2 Privilege Tax Bonds in an amount to ensure the General Fund is made
3 whole in the current or following fiscal year due to timing of debt
4 service requirements but in an amount not to exceed one percent (1%)
5 of refunding proceeds, and to pay expenses relating to the
6 authorization, sale, and issuance of the bonds, including without
7 limitation, printing costs, costs of reproducing documents, credit
8 enhancement fees, underwriting, legal, feasibility, financial advisory
9 and accounting fees and charges, fees paid to banks or other financial
10 institutions providing credit enhancement, costs of credit ratings and
11 other costs, charges and fees in connection with the issuance, sale and
12 delivery of the bonds; provided, however, that bonds may *not* be
13 issued for this purpose unless (A) all obligation of the government to
14 pay debt service on, and the redemption price of, the bonds being
15 refunded *shall* be discharged concurrently with the issuance of the
16 refunding bonds; (B) thereafter, the refunded bonds *shall* be payable
17 solely from and secured solely by the escrow established for such
18 purpose; and (C) the present value of debt service on the refunding
19 bonds *shall* be at least two percent (2%) less than the present value of
20 debt service on the bonds being refunded, inclusive of all fees, for
21 bond counsel and bond underwriters and other costs of issuance.

22 (5) For the first and second bond series, such amount as may
23 be needed to capitalize and pay from bond proceeds interest on the
24 bonds due, accruing or required to be set aside in Fiscal Years 2012
25 and 2013; and

26 (6) expenses incurred in connection with the issuance of
27 such bonds not already included in an existing appropriation for or the

1 regular budget of any government agency or instrumentality or public
2 corporation providing any service in connection with the issuance of
3 such bonds; provided, however, that bonds may *not* be issued in an
4 amount that would cause a violation of the debt limitation provisions
5 of 48 USC § 1423a (§ 11 of the Organic Act of Guam).

6 (7) I Maga'lahañ Guåhan shall utilize the 2011 Real
7 Property Tax Assessment Roll as certified by the Board of
8 Equalization in accordance with § 24218 of Chapter 24, Title 11,
9 Guam Code Annotated, in calculating the amount available for future
10 debt obligation under the Debt Limit (Ceiling) for the bond issuance
11 authorized in this Subsection."

12 ~~(7) I Maga'lahañ Guåhan shall utilize the most recent Real~~
13 ~~Property Tax Assessment Roll certified by the Board of Equalization~~
14 ~~in accordance with § 24518 of Chapter 24, Title 11, Guam Code~~
15 ~~Annotated, in calculating the amount available for future debt~~
16 ~~obligation under the Debt Limit (Ceiling) for the bond issuance~~
17 ~~authorized in this Section."~~

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

19 § 1512.3(b) of Article 5, Chapter 1, Title 5, Guam Code Annotated, is
20 hereby *amended* to read as follows:

21 “(b) Terms and Conditions Determined by Certificate or Indenture.
22 The terms and conditions of the bonds shall be as approved by *I*
23 *Liheslaturan Guåhan*, and as determined by *I Maga'lahañ Guåhan* by the
24 execution of a certificate or indenture authorizing the issuance of the bonds,
25 prior to the issuance of the bonds; provided, however, that such terms and
26 conditions shall be consistent with this Section, that the first and second
27 series of the bonds shall mature not later than thirty-five (35) years after

1 their date of issuance, shall bear interest at such rates and be sold for such
2 price or prices as shall result in a yield to the bondholders that does not
3 exceed six and one half percent (6.5%) per annum, shall require interest only
4 payments for Fiscal Years 2012, 2013 and 2014 and shall not require bond
5 principal payments until after such fiscal years, and that the third series of
6 the bonds shall mature not later than December 31, 2018, and shall bear
7 interest at such rates and be sold for such price or prices as shall result in the
8 present value of debt service on the third series of the bonds being at least
9 two percent (2%) less than the present value of debt service on the bonds
10 being refunded, using the yield on the third series of the bonds as the
11 discount rate, and that the fourth series of the bonds *shall* mature not later
12 than November 15, 2039, *shall not* be used to fund any new money projects
13 and shall bear interest at such rates and be sold for such price or prices as
14 shall result in the present value of debt service on the fourth series of the
15 bonds being at least two percent (2%) less than the present value of debt
16 service on the bonds being refunded, using the yield on the fourth series of
17 the bonds as the discount rate.”

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

19 A new Subitem (1), (2), and (3) are ~~is~~ hereby *added* to § 1512.3(b) of Article
20 5, Chapter 1, Title 5, Guam Code Annotated, to read as follows:

21 “(1) Use of Funds Saved From Fourth Series. Beginning Fiscal
22 Year 2016, the savings achieved by the government of Guam to the General
23 Fund at or above the target referenced in this Subsection (b) due to the
24 refunding of the Government of Guam General Obligation Bonds, 2007
25 Series A and the Government of Guam General Obligation Bonds, 2009
26 Series A by the fourth series of bonds, an amount equal to the resulting
27 reduction in debt service payments relating to the refunded Government of

1 Guam General Obligation Bonds, 2007 Series A and the Government of
2 Guam General Obligation Bonds, 2009 Series A, *shall*, to the extent
3 practical, be allocated from the General Fund and subject to an appropriation
4 by *I Liheslaturan Guåhan* toward capital improvements relating to the Guam
5 Memorial Hospital Authority and other health related matters. The Bureau of
6 Budget and Management Research (BBMR) *shall* be tasked to track and
7 manage the savings achieved by this fourth series refunding and allocate
8 such savings pursuant to this Subsection, and reflect the savings and
9 allocation in the executive branch submission of its budget request to *I*
10 *Liheslaturan Guåhan* each fiscal year. The funds allocated herein *shall* be in
11 addition to the annual budget allocation and budgeted appropriation levels
12 provided to the Guam Memorial Hospital Authority.

13 (2) Notwithstanding any other provision of law, of the initial
14 savings realized as a result of the refinancing of the Bonds contained herein,
15 the sum of two million dollars (\$2,000,000.00) shall be authorized for the
16 following expenditures: (a) one hundred eighty-six thousand, four hundred
17 fifty-four dollars and eighty-five cents (\$186,454.85) to the Department of
18 Administration for the purposes of Typhoon Halong overtime payments; (b)
19 two hundred thousand dollars (\$200,000.00) to the Department of
20 Administration for the purposes of Typhoon Dolphin overtime payments; (c)
21 One hundred and fifty thousand dollars (\$150,000.00) to the Siñajana
22 Mayor's office for the completion of the Open Air Gymnasium, renovations
23 and reconfiguration of the parking lot, building of a playground and
24 renovation of the baseball field; (d) two hundred fifty thousand dollars
25 (\$250,000.00) to the Department of Agriculture for the purposes of
26 compensation to farmers for crop damages in accordance with Chapter 64A,
27 Title 5, Guam Code Annotated; (e) Thirty nine thousand dollars

1 (\$39,000.00) for the purposes of the repair and upgrade of the *Talofof*
2 baseball field; (f) two hundred and seventy-three thousand dollars (\$
3 273,000.00) to the Department of Public Works for the repair of the *Umatac*
4 Bridge towers; (g) one hundred thousand dollars (\$100,000.00) to the *Yoña*
5 Mayor's office for the purposes of the repair of the *Yoña* Gym Facilities; (h)
6 four hundred thousand dollars (\$400,000.00) to the Guam Economic
7 Development Authority for the purposes of administrative fees; (i) four
8 hundred one thousand five hundred forty-five dollars and fifteen cents
9 (\$401,545.15) for the purpose of funding the GUAM Festival of Pacific Arts
10 2016. The funds identified herein shall be subject to legislative
11 appropriation.

12 (3) Notwithstanding Section 2 of this Act, the Guam Economic
13 Development Authority fee shall be limited to the sum of four hundred
14 thousand dollars (\$400,000.00) of the anticipated saving. ~~for the purposes of~~
15 ~~administrative fees.~~

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

17 A new Item (4) is hereby *added* to § 1512.3(j) of Article 5, Chapter 1, Title
18 5, Guam Code Annotated, to read as follows:

19 “(4) The proceeds from the sale of the fourth bond series *shall* be
20 used and are hereby appropriated to (i) fund an escrow to pay principal,
21 interest and redemption price of Government of Guam General Obligation
22 Bonds, 2007 Series A and Government of Guam General Obligation Bonds,
23 2009 Series A, or otherwise to pay in full such 2007 Bonds and 2009 Bonds;
24 (ii) fund capitalized interest on the refunding Business Privilege Tax Bonds
25 in an amount to ensure the General Fund is made whole in the current or
26 following fiscal year due to timing of debt service requirements, but in an
27 amount not to exceed one percent (1%) of refunding proceeds; and (iii) pay

1 expenses relating to the authorization, sale and issuance of the bonds,
2 including, without limitation, printing costs, costs of reproducing
3 documents, credit enhancement fees, underwriting, legal, feasibility,
4 financial advisory and accounting fees and charges, fees paid to banks or
5 other financial institutions providing credit enhancement, costs of credit
6 ratings, and other costs, charges and fees in connection with the issuance,
7 sale and delivery of the bonds.”

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