




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

Bill No. H4-33 (OP)

Introduced by:

Judith T. Won Pat, Ed.D. 
D.G. Rodriguez, Jr. 
N.B. Underwood, Ph.D. 

AN ACT TO AMEND § 58104 OF CHAPTER 58, DIVISION 5, TITLE 5, GUAM CODE ANNOTATED, RELATING TO THE REFINANCING OF THE GOVERNMENT OF GUAM'S OBLIGATIONS WITH RESPECT TO THE GUAM EDUCATION FINANCING FOUNDATION CERTIFICATES OF PARTICIPATION (GUAM PUBLIC SCHOOL FACILITIES PROJECT) SERIES 2006, THE GUAM EDUCATION FINANCING FOUNDATION CERTIFICATES OF PARTICIPATION (GUAM PUBLIC SCHOOL FACILITIES PROJECT) SERIES 2006B AND THE GUAM EDUCATION FINANCING FOUNDATION CERTIFICATES OF PARTICIPATION (GUAM PUBLIC SCHOOLS FACILITIES PROJECT) SERIES 2008.

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:
2 **Section 1. Legislative Findings and Intent:** *I Liheslaturan Guåhan* finds as
3 follows: (a) that under current market conditions, some or all of the Government of
4 Guam's obligations with respect to the Guam Education Financing Foundation
5 Certificates of Participation (Guam Public School Facilities Project) Series 2006A
6 (the "2006A Certificates of Participation"), the Guam Education Financing

1 Foundation Certificates of Participation (Guam Public School Facilities Project)
2 Series 2006B (the “2006B Certificates of Participation” and the Guam Education
3 Financing Foundation Certificates of Participation (Guam Public School Facilities
4 Project) Series 2008 and, together with the 2006A Certificates of Participation and the
5 2006B Certificates of Participation, the “2006 and 2008 Certificates of Participation”),
6 can be refinanced with significant savings for the General Fund, and (b) that the 2006
7 and 2008 Certificates of Participation are not, and the refinancing bonds will not be
8 “public indebtedness,” as that term is defined in 48 USC § 1423a, §11 of the Organic
9 Act of Guam.

10 **Section 2. Authorization of Refinancing of the Government’s Obligations**
11 **with respect to the 2006 Certificates.**

12 § 58104 of Chapter 58, Division 5, Title 5, Guam Code Annotated is hereby
13 *amended* to read as follows:

14 “For the purpose of facilitating the financing or refinancing of the design,
15 construction and maintenance of an Education Facility or Education Facilities
16 encompassed by this Act, the government of Guam or an Education Agency, as the
17 case may be, is authorized to lease, if required, to the Contractor, subject to legislative
18 approval, sufficient government of Guam real property, to include, but not be limited
19 to, Chamorro Land Trust Commission property and Guam Ancestral Lands
20 Commission property, on which to construct, convert or rehabilitate an Education

1 Facility; provided, such property is in the inventory of the Education Agency. The
2 location of the property may be at the site of an existing Education Facility under the
3 control of an Education Agency, which may be converted, rehabilitated or demolished
4 and rebuilt under the provisions of this Act.

5 Any lease of property pursuant to this Act will be for a period mutually agreed
6 upon between the Education Agency and the Contractor as may be reasonably
7 necessary to amortize over the Lease-Back period of the Contract, the costs associated
8 with the financing, design, construction and maintenance of the Education Facility,
9 and in no event shall such period exceed thirty (30) years from the date of
10 commencement of the Lease-Back period, and provided further, that with respect to
11 leases of property for the sole purpose of refinancing the prior design, construction
12 and maintenance of an Education Facility or Education Facilities (1) any leases and/or
13 amendments to such leases entered into for such purposes shall not extend the original
14 Lease-Back period relating to such prior design, construction and maintenance of an
15 Education Facility or Education Facilities of any original leases applied to finance
16 such prior design, construction and maintenance of an Education Facility or Education
17 Facilities; and (2) with respect to any leases and/or amendments to leases that have the
18 effect of refinancing the Government's obligations with respect to the 2006 and 2008
19 Certificates, all obligation of the Government to pay debt service with respect to the
20 2006 and 2008 Certificates being refinanced shall be discharged concurrently with the

1 execution of the leases and/or amendments to leases entered into for such refinancing
2 purpose, and thereafter any remaining debt service on the refunded 2006 and 2008
3 Certificates shall be payable solely from and secured solely by a refunding escrow
4 established for such purpose; (2) the present value in the aggregate of debt service
5 with respect the Government's obligations with respect to such new leases or
6 amendments to leases shall be at least two percent (2.0%) less than the present value
7 in the aggregate of debt service on the refunded 2006 and 2008 Certificates, using the
8 yield on the refunding bonds as the discount rate; and (3) no increase in the amount of
9 outstanding "public indebtedness" as that term is used in 48 USC 1423a (§11 of the
10 Organic Act of Guam) shall result from the execution of any such new leases and/or
11 amendments to leases.

12 The Contractor shall lease back to the Education Agency the property for the
13 Lease-Back period. Upon the expiration of the Lease and the Lease-Back periods and
14 the fulfillment of the terms and conditions of the Lease-Back by the Education
15 Agency, the property and the Education Facility shall become the property of the
16 Education Agency, and the Contractor shall have no further right, title or interest in
17 the property or the Education Facility.”

18 **Section 3. Severability.** If a provision of this act or its application to any
19 person or circumstance is held invalid, the invalidity does not affect other provisions

- 1 or applications of the act that can be given effect without the invalid provision or
- 2 application, and to this end the provisions of this act are severable.