

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

Bill No. 208-33 (LS)

Introduced by:

Judith T. Won Pat, Ed.D. 

AN ACT TO AMEND § 58104 OF CHAPTER 58, DIVISION 5, TITLE 5, GUAM CODE ANNOTATED, RELATIVE 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 2006A, 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.** § 58104 of Chapter 58, Division 5, Title 5, Guam Code
3 Annotated, is hereby *amended* to read as follows:

4
5 **“§ 58104. Authorization to Enter into Long-Term Leases.**

6 For the purpose of facilitating the refinancing of the design,
7 construction and maintenance of an existing Education Facility or existing
8 Education Facilities encompassed by this Act, the government of Guam or
9 an Education Agency, as the case may be, is authorized to lease under

1 existing contracts and/or existing amendments thereto, if required, to the
2 Contractor, subject to legislative approval, sufficient government of Guam
3 real property, to include, but *not* be limited to, Chamorro Land Trust
4 Commission property and Guam Ancestral Lands Commission property, on
5 which to construct, convert or rehabilitate an Education Facility; provided,
6 such property is in the inventory of the Education Agency. The location of
7 the property may be at the site of an existing Education Facility under the
8 control of an Education Agency, which may be converted, rehabilitated or
9 demolished and rebuilt under the provisions of this Act.

10 Any lease of property pursuant to this Act will be for a period
11 mutually agreed upon between the Education Agency and the Contractor as
12 may be reasonably necessary to amortize over the Lease-Back period of the
13 Contract, the costs associated with the financing, design, construction and
14 maintenance of the Education Facility, and in no event shall such period
15 exceed thirty (30) years from the date of commencement of the Lease-Back
16 period; and provided further, that with respect to leases of property for the
17 sole purpose of refinancing the prior design, construction and maintenance
18 of an existing Education Facility or existing Education Facilities: (1) any
19 leases and/or amendments to such leases entered into for such purposes *shall*
20 *not* extend the original Lease-Back period relating to such prior design,
21 construction and maintenance of an existing Education Facility or existing
22 Education Facilities of any original leases applied to finance such prior
23 design, construction and maintenance of an existing Education Facility or
24 existing Education Facilities; (2) with respect to any existing leases and/or
25 existing amendments to leases that have the effect of refinancing the
26 government's obligations with respect to the Guam Education Financing
27 Foundation Certificates of Participation Series 2006 and 2008 (2006 and

1 2008 Certificates), all obligations of the government to pay debt service with
2 respect to the 2006 and 2008 Certificates being refinanced *shall* be
3 discharged concurrently with the execution of the leases and/or amendments
4 to leases entered into for such refinancing purpose, and thereafter any
5 remaining debt service on the refunded 2006 and 2008 Certificates *shall* be
6 payable solely from and secured solely by a refunding escrow established for
7 such purpose; (3) the present value in the aggregate of debt service with
8 respect to the government's obligations with respect to such new leases or
9 amendments to leases *shall* be at least two percent (2%) less than the present
10 value in the aggregate of debt service on the refunded 2006 and 2008
11 Certificates, using the yield on the refunding bonds as the discount rate; and
12 (4) no increase in the amount of outstanding "public indebtedness" as that
13 term is used in 48 USC 1423a (§11 of the Organic Act of Guam) shall result
14 from the execution of any such existing leases and/or existing amendments
15 to leases; ~~and (5) any refinancing of such Certificates of Participation shall~~
16 ~~bear interest at such rates and be sold for such price or prices as shall result~~
17 ~~in a yield to the certificate holders that does not exceed three percent (3%)~~
18 ~~per annum.~~

19 The Contractor *shall* lease back to the Education Agency the property
20 for the Lease-Back period. Upon the expiration of the Lease and the Lease-
21 Back periods and the fulfillment of the terms and conditions of the Lease-
22 Back by the Education Agency, the property and the existing Education
23 Facility or existing Education Facilities *shall* become the property of the
24 Education Agency, and the Contractor *shall* have no further right, title or
25 interest in the property or the existing Education Facility or existing
26 Education Facilities."