

***I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN***  
**2016 (SECOND) Regular Session**

Bill No. 285-33 (COR)

Introduced by:

FRANK B. AGUON, JR.



**AN ACT TO *ADD* A NEW ARTICLE 7 TO CHAPTER 77,  
DIVISION 2, TITLE 12, GUAM CODE ANNOTATED,  
RELATIVE TO TAX CREDITS FOR THE  
REHABILITATION AND IMPROVEMENT OF THE  
HARMON INDUSTRIAL PARK ROADWAY.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
3 that the Harmon Industrial Park is a vital component of economic activity on  
4 Guam, which houses several of the larger business entities on Guam, specifically  
5 in the industrial, distribution, construction, retail, auto mechanical, maintenance,  
6 recycling and the storage industries. This famous commerce zone also houses  
7 hundreds of families in the many condominium and apartment complexes within  
8 the mile and half long district.

9           *I Liheslaturan Guåhan* further finds that thirty-six (36) business entities,  
10 who employ almost Four Thousand (4,000) employees have recently created the  
11 Harmon Industrial Park Association (HIPA), and this does not include the several  
12 other business entities that have yet to submit their membership into the  
13 organization.

14           The most important objective of the HIPA is to work with the government of  
15 Guam in finding a way to permanently repair the primary roadway of the Harmon

1 Industrial Park. There have been several “patchwork” projects conducted over the  
2 years, however the conditions of the primary road continues to be deplorable. The  
3 organization wishes to see the repair and expansion of the roadway, along with  
4 certain improvements along the secondary roads in this district as well.

5 *I Liheslaturan Guåhan* further finds that the Harmon Industrial Park also  
6 serves as a critical path that not only connects Marine Drive through the adjacent  
7 Hamburger Road which exits into the village of Dededo, but also provides an exit  
8 into the road that enters and exits The Home Depot, and eventually into the Guam  
9 Airport, Tiyan and upwards to Barrigada. In other words, this economic zone also  
10 plays a vital role in maintaining traffic flows that would alleviate travel woes. In  
11 the long run, this provides additional longevity for the road condition of Route  
12 One-Marine Drive.

13 While all road construction projects should be prioritized equally, due to  
14 economic conditions the government’s ability to fund all projects is challenging.  
15 The Territorial Highway Fund (THF) has funding limitations each year, and  
16 typically get’s tapped into for emergency road repairs which are unpredictable,  
17 thus legislating an allocation of the funds from this account, does not guarantee the  
18 project will be repaired in a stated timeline.

19 The members of the HIPA are willing to dig into their pockets to provide the  
20 funding of the rehabilitation and improvement of the roadway which they drive  
21 through on a daily basis. However they request that in lieu of their contributions, a  
22 tax credit against unpledged business privilege taxes and excise taxes be provided,  
23 by utilizing a similar program legislated and managed by the Guam Economic  
24 Development Agency for other projects such as the construction and/or repairs of  
25 the Guam Raceway Park, the Guam Soccer Stadium, the University of Guam’s  
26 Sports Complex, and the Tiyan Gymnasium.



1 § 77709. Fines and Penalties.

2 **§ 77701. Applicability of Article.**

3 The provisions of this Article are applicable to the Harmon  
4 Industrial Park's Roadway as authorized by the Act.

5 **§ 77702. Credits Against Unpledged Business Privilege Tax.**

6 (a) To the extent that any business contributes the cost of  
7 design, labor and materials that is for the rehabilitation and  
8 improvement of the Harmon Industrial Park Roadway as identified  
9 and approved by GEDA, shall be entitled to credit of unpledged  
10 business privilege taxes. The basis for contribution to the project shall  
11 be the actual cost of the contribution plus the cost of transportation  
12 from the point of origin to its destination.

13 (b) Any unused credits not used in the current tax period may  
14 be carried over into subsequent tax periods until such credits are  
15 exhausted.

16 (c) The total credits allowed under this Act shall not exceed the  
17 actual dollar amount of the expenditures on the project.

18 **§ 77703. Cap on Business Privilege Tax Credits for the**  
19 **Rehabilitation and Improvement of the Harmon Industrial Park**  
20 **Roadway.**

21 (a) The total amount of credits against unpledged business privilege  
22 taxes for the rehabilitation and improvement of the Harmon Industrial Park  
23 Roadway authorized herein *shall not* exceed One Million Dollars  
24 (\$1,000,000) over a four (4) year period. No more than Two Hundred Fifty  
25 Thousand Dollars (\$250,000) in tax credits shall be authorized for each year  
26 of the program.

1 (b) If, at the expiration of the four (4) year period authorized pursuant  
2 to this Article, there are still unclaimed authorized tax credits, I Liheslaturan  
3 Guåhan may, in its discretion, extend the eligible period until such time that  
4 all eligible tax credits are exhausted.

5 (c) *I Liheslaturan Guåhan may*, in its discretion, extend the term and  
6 modify any part of the program based on future improvement plans and  
7 demand in this location.

8 (d) Construction and professional services and equipment and  
9 materials shall be competitively procured.

10 **§ 77704. Credits Against Use Excise Tax.**

11 (a) To the extent that any business contributes the cost of design,  
12 labor and materials that are for the rehabilitation and improvement of the  
13 Harmon Industrial Park Roadway as identified and approved by GEDA,  
14 shall be entitled to credit of use excise taxes, not inclusive of those pledged  
15 to the Healthy Future Funds. The basis for contribution to the project shall  
16 be the actual cost of the contribution plus the cost of transportation from the  
17 point of origin to its destination.

18 (b) Any unused credits not used in the current tax period may be  
19 carried over into subsequent tax periods until such credits are exhausted.

20 (c) The total credits allowed under this Act shall not exceed the actual  
21 dollar amount of the expenditures on the project.

22 **§ 77705. Cap on Use Excise Tax Credits for Rehabilitation and**  
23 **Improvement of the Harmon Industrial Park Roadway.**

24 (a) The total amount of credits against use excise taxes, not inclusive  
25 of those pledged for the Healthy Future Funds, for the rehabilitation and  
26 improvement of the Harmon Industrial Park Roadway authorized herein  
27 shall not exceed Three Million Dollars (\$3,000,000) over a four (4) year

1 period. No more than Seven Hundred Fifty Thousand Dollars (\$750,000) in  
2 tax credits shall be authorized for each year of the program.

3 (b) If, at the expiration of the four (4) year period authorized pursuant  
4 to this Article, there are still unclaimed authorized tax credits, *I Liheslaturan*  
5 *Guåhan* may, in its discretion, extend the eligible period until such time that  
6 all eligible tax credits are exhausted.

7 (c) *I Liheslaturan Guåhan* may, in its discretion, extend the term and  
8 modify any part of the program based on future improvement plans and  
9 demand in this location.

10 (d) Construction and professional services and equipment and  
11 materials shall be competitively procured.

12 **§ 77706. GEDA Report.**

13 GEDA shall submit a report to *I Liheslaturan Guåhan* detailing  
14 the impact of the program on the business privilege, use excise taxes  
15 and economic activities on Guam. GEDA shall also include in its  
16 report its monitoring efforts and any other information related to the  
17 program. The report shall be transmitted to *I Liheslaturan Guåhan* on  
18 an annual basis until the tax credit cap pursuant to § 77703 and  
19 §77705 of this Article is exhausted.

20 **§ 77707. Rules and Regulations.**

21 The Guam Economic Development Authority shall implement  
22 and monitor the tax credit program authorized pursuant to this Article  
23 based on rules and regulations already adopted by GEDA for previous  
24 tax credit programs.

25 **§ 77708. Approval of Contributions.**

26 GEDA or its designee shall be responsible for approving the  
27 contributions made towards the development, construction, financing,

1 maintenance, rehabilitation and improvement of the Harmon  
2 Industrial Park Roadway project as identified in this Article.

3 **§ 77709. Fines and Penalties.**

4 To the extent that a company providing materials and services  
5 for the project contained herein takes more tax benefits in terms of  
6 unpledged business privilege taxes or use excise taxes than the actual  
7 value of the materials or services contributed to the project authorized  
8 herein, that company shall be required to pay all interest and penalties  
9 applicable under Guam law and the Internal Revenue Code for failure  
10 to pay taxes in addition to payment of the actual taxes due. To the  
11 extent that any individual, officer, director or other person having  
12 interest in a company providing materials or services for the project  
13 contained herein knowingly and willingly cause such company to take  
14 more tax benefits in terms of business privilege taxes than the actual  
15 value of the material or services contributed to the project, such  
16 individual shall be guilty of a felony in the third degree punishable by  
17 a fine of not less than Five Thousand Dollars (\$5,000) or one (1) year  
18 in prison or both.”

19 **Section 3. Effective Date.** This Act *shall* be effective upon enactment.

20 **Section 4. Severability.** *If* any provision of this Law or its application to  
21 any person or circumstance is found to be invalid or contrary to law, such  
22 invalidity *shall not* affect other provisions or applications of this Law which can be  
23 given effect without the invalid provisions or application, and to this end the  
24 provisions of this Law are severable.