



MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 98(FC)

Introduced by:

A. R. Unpingco 
Edward J. B. Calvo 

**AN ACT TO AUTHORIZE THE CREATION OF
THE TUMON BAY SPECIAL IMPROVEMENT
DISTRICT.**

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

2 **Section 1. Tumon Bay Special Improvement District, Authorized. (a)**

3 There is hereby authorized to be created the *Tumon Bay Special Improvement*
4 *District* (hereinafter referred to as the 'District') for the purpose of financing
5 and providing supplemental maintenance and security services and such
6 other improvements, services, and facilities within the Tumon Bay area, as
7 delineated herein.

8 **(b) Organization.** The District shall consist of an association whose
9 members may include: each commercial property owner within the delineated
10 area, or a designated representative, if the property is unassigned; if the
11 property has an assignment of lease, and is composed of a group of multiple
12 lessees, then the group may designate a representative to be the member of
13 the association; if the property has an assignment of lease, and has a single
14 lessee, then the lessee, or a designated representative, is eligible to be a
15 member; the Mayor of Tamuning-Tumon, or a designated representative, as
16 an ex-officio member; the General Manager of the Guam Visitors Bureau, or a

1 designated representative, as an ex-officio member; and, the Chief of Police, or
2 a designated representative, as an ex-officio member.

3 The District shall be headed by a governing board composed of five (5)
4 members elected from amongst the association's members. The method of
5 election of the board and its officers shall be determined by the members
6 present at a publicly announced meeting of the association. The Mayor of
7 Tamuning-Tumon shall serve as Chairperson Pro Tem of the association until
8 the seating of the governing board and its officers.

9 The District's governing board may retain an individual or firm to
10 provide management services for the Tumon Bay Special Improvement
11 District.

12 **(c) Association's Status.** The association and its governing board are
13 established for the purposes of carrying out the activities described in this
14 section, and shall not be deemed a governmental body. The board and
15 association shall neither be deemed to be a government department, agency,
16 or a municipality nor to be performing services on behalf of a government
17 department, agency, or municipality.

18 **(d) Levy of Special Assessment.** The District may levy and assess a
19 special assessment on property located within the special improvement
20 district to finance the maintenance and operation of the special improvement
21 district and to pay the debt service on any bonds issued to finance
22 improvements within the special improvement district. Notwithstanding any
23 law to the contrary, in assessing property for a special assessment, the District
24 may implement a methodology as the governing board deems appropriate.
25 The special assessment may be fixed in an amount or appropriated on a basis

1 as the governing board deems appropriate, and it shall not be essential that
2 the property subject to the special assessment be improved or benefited by the
3 operation and maintenance of the special improvement district or any activity
4 or improvement undertaken for, and financed by, the special improvement
5 district. To the extent practicable, the governing board may follow the
6 procedures set forth in §§69112-69116 of Title 21, Guam Code Annotated, in
7 determining a methodology.

8 **(e) Issuance and Sales of Bonds.** The District may issue and sell
9 bonds to finance improvements within the special improvement district and
10 the statute authorizing the creation of special improvement districts may
11 provide the method, procedure, and type or types of security for those bonds.
12 Each issue or series of bonds shall be authorized by statute separate from the
13 statute establishing the Tumon Bay Special Improvement District. The bonds
14 shall be in amounts, in denomination or denominations, in form or forms,
15 executed in a manner, payable in place or places and at time or times, bear
16 interest at rate or rates (either fixed or variable), mature on date or dates and
17 provide terms and conditions of redemption, provide security (including the
18 pledge of proceeds of the bonds, special assessments, and the lien therefore),
19 provide for credit enhancement, if any, administration, terms of investment of
20 proceeds of the bonds and special assessment receipts, provide terms of
21 default and remedy, and other terms and conditions, as the governing board
22 shall determine. Bonds issued pursuant to this section and the interest thereon
23 and other income therefrom shall be exempt from any and all taxation by the
24 government of Guam or any municipality or other political subdivision,
25 except for inheritance, transfer, and estate taxes.

1 (f) **Objections to assessment, bonds.** Notwithstanding any other law
2 to the contrary, no action or proceeding to object to or question the validity of
3 or enjoining any statute, action, or proceeding permitted by this section
4 (including the liability for or the determination of the amount of any special
5 assessment levied or the imposition thereof), or any bonds issued or to be
6 issued pursuant to a statute enacted as permitted by this section, shall be
7 maintained unless begun thirty (30) days after the adoption of the statute
8 authorizing or amending the assessment formula and, in the case of bonds,
9 within thirty (30) days after the enactment of the statute authorizing the
10 issuance of the bonds.

11 (g) **Exemptions.** These properties are exempt from any assessment:

12 (1) Property owned by the government of Guam or its entities,
13 may be exempt from the assessment except as provided in
14 paragraph (3);

15 (2) Property owned by the federal government or its entities,
16 shall be exempt from the assessment except as provided in
17 paragraph (3);

18 (3) If a public body owning property, including property held in
19 trust for any beneficiary, which is exempt from an
20 assessment pursuant to paragraphs (1) and (2), grants a
21 leasehold or other possessory interest in the property to a
22 nonexempt person or entity, the assessment,
23 notwithstanding paragraphs (1) and (2), shall be levied on
24 the leasehold or possessory interest and shall be payable by
25 the lessee; and

- 1 (4) All non-commercial property; and
2 (5) All undeveloped property, until put into use as commercial
3 property; and
4 (6) No other properties or owners shall be exempt from the
5 assessment unless the properties or owners are expressly
6 exempted in the statute establishing a district adopted
7 pursuant to this section or amending the rate or method of
8 assessment of an existing district.

9 (h) **Lien.** The assessments levied pursuant to the statute authorizing
10 the creation of the Tumon Bay Special Improvement District and this section
11 shall be a lien upon the property assessed. The lien shall have priority over all
12 other liens except the lien of general property real taxes.

13 (i) **Tumon Bay Special Improvement District, delineated.** For the
14 purposes outlined in this Act, the Tumon Bay Special Improvement District is
15 delineated as the land contained in the area from the cliff line off of Marine
16 Drive to the high water mark of Tumon Bay, and from the former Guam
17 Memorial Hospital property located on Oka Point to the intersection of
18 Chalan San Vitores and Marine Drive adjacent to the former Australian Cable
19 Station to the Gun Beach area, inclusive.

20 **Section 3. Provision of government services.** The creation of the
21 Tumon Bay Special Improvement District does not relieve the government of
22 its obligations to provide services to its citizens residing and living within the
23 District, that it would have absent the creation of the same.