

MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) REGULAR SESSION

Bill No. 156 (EC)

Introduced by:

L.A. Leon Guerrero *L. L.*

AN ACT TO AMEND SUBSECTIONS (A) AND (B) OF §30101, DIVISION 2, CHAPTER 30 OF TITLE 11, AND SUBSECTION (A) OF §77114, DIVISION 2, CHAPTER 77 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO RESTORING THE HOTEL OCCUPANCY TAX FROM ELEVEN TO THIRTEEN PERCENT.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahån*
3 finds that the Hotel Occupancy Tax was established as a revenue source
4 for the development and maintenance of facilities on Guam to enhance
5 the island's attractiveness as a tourist destination. Over the years, its
6 use has been gradually expanded to fund marketing and promotional
7 campaigns to the degree that the original purpose has become a
8 secondary priority that has led to the deterioration of our visitor
9 facilities. Initially, the tax was pegged at five percent in 1970 when the
10 Tenth Guam Legislature amended §19650 of the Government Code of
11 Guam. Two years later, in 1972, during the Eleventh Guam Legislature,
12 Public Law 11-145 imposed an excise tax of ten percent. Subsequently,
13 the tax rate remained consistent until Public Law 19-27 adjusted the

1 percentage being assessed to thirteen percent effective April 1, 1989, and
2 thereafter.

3 *I Liheslatura* further finds that the magnitude 8.2 earthquake of
4 August 8, 1993, prompted the Twenty-Second Legislature to temporarily
5 reduce the Hotel Occupancy Tax in order to assist the visitor industry
6 by making rooms more affordable and encouraging visitors to visit
7 Guam, until such time the industry can recover from the natural disaster
8 and other series of setbacks it had suffered.

9 The same Twenty-Second Legislature amended the Hotel
10 Occupancy Tax from April 1, 1995, and thereafter to be at the rate of
11 eleven percent of the rental price charged or paid per occupancy per
12 day, which continues to be the current tax assessment to date.

13 The visitor industry has since been stable and according to
14 indicators from the Guam Visitor's Bureau, the number of visitors to
15 Guam has steadily increased based on its preliminary May 2005 arrivals.
16 The month of May nudged seven percent higher compared to last year's
17 tally (92,472 vs. 86,704). In addition, calendar-year-to-date arrivals
18 outpaced 2004's volume by seven percent (511,063 in 2005 vs. 477,555 in
19 2004).

20 Therefore, it is the intent of *I Liheslatura* to restore the Hotel
21 Occupancy Tax, which was temporarily reduced, back to its original
22 assessment of thirteen percent and earmark the restored two percent
23 Hotel Occupancy Tax rate to the Department of Parks and Recreation's
24 Public Recreation Services Fund, to allow the original purpose of the tax
25 to be achieved – the enhancement of visitor and public facilities.

1 **Section 2.** Subsection (a) and (b) of §30101, Division 2, Chapter 30
2 of Title 11 Guam Code Annotated is hereby amended to read as follows:

3 “(a) From ~~September 1, 1993~~ April 1, 1995 through ~~March 31, 1995,~~
4 August 31, 2006, the rate shall be ~~ten~~ eleven percent (~~10%~~)(11%) of
5 the rental price charged or paid per occupancy per day;

6 (b) From ~~April 1, 1995~~ September 1, 2006 and thereafter the rate
7 shall be ~~eleven~~ thirteen percent (~~11%~~) (13%) of the rental price
8 charged or paid per occupancy per day.”

9 **Section 3.** Subsection (a) of §77114, Division 2, Chapter 77 of Title
10 21, Guam Code Annotated is hereby amended to read as follows:

11 “**§77114. (a) Public Recreation Services Fund.** Notwithstanding
12 any other provision of law, there is hereby created, within the
13 Department of Parks and Recreation, the ‘Public Recreation Services
14 Fund,’ which shall be a fund separate and apart from the General Fund
15 and from any other special funds of the government of Guam. Two
16 percent from the Hotel Occupancy Tax rate, pursuant to 11GCA
17 §30101(b) shall be deposited into the Public Recreation Services Fund.
18 In addition, ~~A~~any and all funds generated through department fees,
19 fines and assessments by the Department of Parks and Recreation shall
20 be deposited into the Public Recreation Services Fund. The Director of
21 the Department shall administer said funds independently from the
22 General Fund, with a minimum requirement of dual signatures for the
23 expenditure of any funds within the authorized guidelines.

1 Expenditures of the Public Recreation Services Fund shall be
2 restricted to expenditures in the following areas, and for the following
3 purposes:

- 4 (1) the development, construction of new parks and
5 facilities and the maintenance, upgrade and upkeep
6 of all parks, public restrooms, and recreational
7 facilities within the jurisdiction of the Department;
- 8 (2) the purchase of supplies, materials and equipment
9 to support the activities outlined in Subsection (i)
10 above; and
- 11 (3) the creation or continuance of existing community
12 related programs and activities for the benefit of the
13 island.

14 Funds from the Public Recreation Services Fund shall not be
15 expended for personnel services, but used solely for operations as
16 highlighted above. The expenditure of all funds in the Public
17 Recreation Services Fund shall be subject to legislative
18 appropriation.

19 The Director of the Department of Parks and Recreation shall
20 provide a monthly financial report on the funds generated each
21 month, within ten (10) days following the preceding month.”

22 **Section 4. Effective Date.** Amendments made to Section 3 of this
23 Act shall be effective September 1, 2006.

24 **Section 5. Severability.** If any of the provisions of this Act or the
25 application thereof to any person or circumstance is held invalid, such

1 invalidity shall not affect any other provision or application of this Act
2 which can be given effect without the invalid provision or application,
3 and to this end the provisions of this Act are severable.