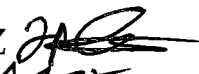




MINA' BENTE NUEBI NA LIHESLATURAN GUAHAN
2007 (FIRST) REGULAR SESSION

Bill No. 142 (EC)

Introduced by:

J.P. GUTHERTZ 
R.J. RESPICIO 
T.R. MUÑA BARNES 
D.L.G. SHIMIZU

AN ACT TO PLACE A MORATORIUM ON THE
ASSESSMENT AND COLLECTION OF NEW FEES
ESTABLISHED BY PUBLIC LAW 29-02 PENDING
APPROVAL BY THE VOTERS OF GUAM PURSUANT
TO §17312 OF TITLE 3 OF THE GUAM CODE
ANNOTATED

2007 JUN 22 PM 6:54 am

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

2 **Section 1. Legislative Findings.** In the American system of
3 government, the original authority to establish, approve and
4 disapprove the assessment and collection of taxes and fees for
5 specific government services is vested with the Legislative Branch.
6 Section 11 of the Organic Act, Title 48 U.S.C. 1423a, describes the
7 scope of the powers of *I Liheslaturan Guahan* to include "all rightful
8 subjects of local legislation."

9 *I Liheslaturan Guahan* enacted Public Law 24-222:2, codified as a
10 §§ 17311 and 17312 of 3GCA which specifically requires Voter
11 Approval on any increases in real property tax, liquid fuel tax, gross
12 receipts tax or any locally enacted and administered tax on Guam; as
13 well as with any general obligation bond of the government of Guam
14 in excess of Twenty-five Million Dollars (\$25,000,000), as well as in
15 the case of the creation of any new fee for service proposed to be

1 established in such cases where the fee is for a service already
2 provided by the government of Guam.

3 The legal requirements for Voter Approval have previously
4 been set aside statutorily by *I Mina Bente Siete Na Liheslaturan Guahan*,
5 when the 'Gross Receipts Tax,' now known as the 'Business Privilege
6 Tax' was increased, and when borrowing authority was granted to *I*
7 *Maga'lahen Guahan* for General Obligation Bonds. Most recently, *I*
8 *Mina Bente Nuebi Na Liheslaturan Guahan*, specifically set aside these
9 requirements with the establishment of new fees for the Guam Police
10 Department and Guam Fire Department pursuant to Public Law 29-
11 02. However, forty-six (46) other new fees for the Department of
12 Revenue and Taxation, Department of Land Management, and
13 Territorial Land Use Commission, which were established in the
14 same Public Law 29-02, did not contain any statutory authorization to
15 set aside the Voter Approval requirement.

16 **Section 2. Legislative Intent.** Without any statutory authority
17 to set aside the Voter Approval requirements of §17312 of Title 3 of
18 the Guam Code Annotated, it is the intent of *I Liheslaturan Guahan* to
19 place a moratorium on the assessment and collection of those new
20 fees established by Public Law 29-02, until such time that the Voters
21 of Guam approve such fees.

22 **Section 3.** Section 1(a) of Chapter V, Part IX of Public Law 29-02
23 is hereby amended as follows:

24 **"Section 1. Effective Date.** (a) The effective date for all fees,
25 charges, penalties, provisions, exemptions and moratoriums as
26 contained in this Act, excluding any de-appropriation
27 penalties and any new fees not otherwise exempted from the
28 legal requirement for voter approval pursuant to §17312 of

1 Title 3 of the Guam Code Annotated, contained in this Act
2 shall be May 1, 2007.”

3 **Section 4. Moratorium on New Fees.** Upon enactment into law,
4 a moratorium shall be placed on the collection and assessment of any
5 new fee established by Public Law 29-02, in which the establishment
6 thereof is subject to the approval of the voters of Guam pursuant to
7 §17312 of Title 3 of the Guam Code Annotated. Such moratorium
8 shall only be removed for those fees which are approved by the
9 voters of Guam pursuant to §17312 of Title 3 of the Guam Code
10 Annotated.

11 **Section 5. Refund of Fees.** Any amount collected as payment
12 for a new fee established by Public Law 29-02, in which a moratorium
13 is placed on the collection and assessment of such fee pursuant to this
14 Act, shall be appropriately refunded.

15 **Section 6. List of New Fees.** The following new fees established
16 in Public Law 29-02 are subject to the moratorium contained in
17 Section 3 of this Act:

Chapter: Part: Section	Description	Department	Title & Section
V:I:1	Income Tax Service Fee	Revenue/Tax	11GCA, §1112
V:I:4	Class 4 Retail Dealer's On-sale License Fee for Waitress and Manager only	Revenue/Tax	11GCA, §3207
V:I:5	Violations of the Alcohol Beverage Control Law	Revenue/Tax	11GCA, §3613
V:I:6	Occupational License Fee	Revenue/Tax	3GAR, §7103
V:I:8	Uniform Fee for Filing, Indexing and Furnishing Filing Data (subdivision 1 of 9407) for a termination statement	Revenue/Tax	13GCA, §9404(3)
V:I:14	Violation for Over the Counter Tobacco Product Display and Location	Revenue/Tax	11GCA, §6115(d)
V:I:15	License Fees for Certain Amusement Devices	Revenue/Tax	11GCA, §22202(g),(h)

V:I:16	Penalty for Seized and Confiscated Amusement Devices	Revenue/Tax	11GCA, §22211
V:I:17	Excise Tax on Certain Recreational Facilities including but not limited to: Shooting Range/Gallery, Game Room, Go-cart Facility, Off-track Racing Park, Paint Ball Bun Range/Gallery, Shuffle Board Location, Billiard Pool Hall, Coin-operated Pool Table, Mahjong Table, Baseball Batting Cage, Water Park, Sling Shot Bungy Jump, and other facilities	Revenue/Tax	11GCA, §22401 (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q)
V:I:18	Revenue Ruling Fee	Revenue/Tax	11GCA, §26102(h)
V:I:21	Reproduction; Certified Copies and Authentication Fees	Revenue/Tax	11GCA, §70133
V:I:22	Licensing Fee for Customer-Bank Communication Terminal (CBCT) automated teller machine (ATM), or cash dispensing machine not contiguous to a main or branch facility established and operated by a bank, credit union or a non-bank entity; Total asset assessments for banks licensed in Guam	Revenue/Tax	11GCA, §72102(b), (c)
V:I:29	Service License Fee	Revenue/Tax	11GCA, §76101
V:I:30	Branch Application Fee	Revenue/Tax	11GCA, §106601(e)
V:I:33	Bulk Transfer Filing Fee	Revenue/Tax	13GCA, §6102(6)
V:I:35	Driver's License Fees	Revenue/Tax	16GCA, §3102
V:I:36	Fee for Drivers Handbooks	Revenue/Tax	16GCA, §3116
V:I:43	Motor Vehicle Recordation Fee	Revenue/Tax	16GCA, §7153
V:I:44	Annual License, Registration Fee	Revenue/Tax	16 GCA, §7160
V:I:47	Proof of Ownership or Status of Said Vehicle Certification Fee	Revenue/Tax	16GCA, §7176
V:I:49	Taxi Identification Card	Revenue/Tax	16GCA, §11102(d)
V:I:52	Graduated Drivers License Fees	Revenue/Tax	16GCA, §31A08
V:I:54	Name Change Fee resulting from a Merger between two (2) companies, groups or associations	Revenue/Tax	18GCA, §2110(i)
V:I:57	Voluntary Corporate Dissolution Filing Fee	Revenue/Tax	18GCA, §5102(a)
V:I:59	Service of Process for Foreign Corporations Fee	Revenue/Tax	18GCA, §7113(d),(e)
V:I:60	Articles of Merger Fee	Revenue/Tax	18GCA, §9202.1
V:I:62	Dissolution of Partnership Fee	Revenue/Tax	18GCA, §25601

V:I:64	Articles of Association or Articles of Incorporation of a Non-Profit Association Filing Fee	Revenue/Tax	18GCA, §10103
V:I:70	Trust Accounts: Penalty	Revenue/Tax	21GCA, §104121
V:I:87	Penalty for Violating General Regulations for Insurers as contained in Article 1, Chapter 15, of 22 GCA	Revenue/Tax	22GCA, §15114
V:I:88	Filing Fee for Annual Statement, Penalty for Non-Filing	Revenue/Tax	22GCA, §15316
V:I:89	Penalty for Violating Article 3, Chapter 15, of 22 GCA relative to Domestic Insurers	Revenue/Tax	22GCA, §15318
V:I:90	Filing Fee for Annual Statement: Penalty For Foreign Insurer	Revenue/Tax	22GCA, §15405
V:I:91	Filing Fee for Annual Statement: Penalty for Alien Insurer	Revenue/Tax	22GCA, §15506
V:I:94	Penalty for Violating Article 7, Chapter 15 of 22 GCA relative to Brokers, General Agents, Sub-Agents, and Solicitors	Revenue/Tax	22GCA, §15712
V:I:96	Insurance Manager, Broker, Agent, or Reinsurance Intermediary for Captive Business Application Fee	Revenue/Tax	30GAR, §16117(c)
V:I:97	Policy Form Filed with the Commissioner	Revenue/Tax	22GCA, §18308
V:I:98	Filing Fee Rate Plan or Request for Commissioner's Approval	Revenue/Tax	22GCA, §18501(d)
V:I:99	Penalty for Violating Article 5, Chapter 18, of 22GCA relative to Rates	Revenue/Tax	22GCA, §18504
V:III:1	Processing Fees For Certificate of Title and Abstract of Title and Research Processing Fees	Land Management	21GCA, §60320(j), (k)
V:III:5	Fee Schedule f or Reproduction of Maps, Survey Manual, 1963 GGTN Book Horizontal Book, Horizontal Control Survey by (CGS), Vertical Control Data	Land Management	21GCA, §60602
V:III:6	Fees for Providing Electronic and Hard Copies of Maps, Enhanced Access to the Department's Databases relative to the Geographic Information Systems and Land Information Systems (GIS/LIS)	Land Management	Not Codified
V:III:7	Charges for Notification of	Land	21GCA, §61303(d)

	Surrounding Property Owners	Management	
V:III:8	Territorial Land Use Commission Filing Fees	Territorial Land Use Commission	21GCA, §61660
V:III:9	Wetland & Seashore Permit Fees	Land Management	21GCA, §63112
V:III:12	Junk Yard Permit Application	Land Management	21GCA, §61563

1