

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

Bill No. 176 (EC)

Introduced by:

v.c. pangelinan
J.T. Won Pat, Ed. D.

AN ACT TO AMEND ARTICLE 1, CHAPTER 14 OF
TITLE 12 GUAM CODE ANNOTATED RELATIVE TO
DECLARING THE PROPERTY IN AND THE RIGHT
TO THE USE OF ALL THE WATER AT ANY TIME IN
A STREAM, RIVER, OR OTHER SURFACE SOURCE
AND WATER LOCATED BENEATH THE GROUND
AND IN THE AQUAFIR IN GUAM ARE FOR ALL
PURPOSES VESTED IN THE GOVERNMENT OF
GUAM.

2007 07 26 09 10
J.T. Won

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings. *I Liheslaturan Guahan* finds that
3 protecting the interest of the people of Guam is paramount in the
4 development of Guam's water resources. As such, it is recognized that the
5 waters of the Territory are held for the benefit of the citizens of Guam. The
6 development of this life giving and sustaining resource must be controlled
7 and rest exclusively with the people of Guam.

8 The development of independent water production, transmission and
9 distribution systems shall not be permitted. Rather, the development must be
10 integrated. Furthermore, the development of Guam's water resources,
11 production, transmission and distribution shall remain under the direction
12 and control of the people.

1 **Section 2. Purpose.** The purpose of this Act is to foster sustainable use
2 of Guam’s water resources in continuation of the objectives of conserving and
3 protecting the environment.

4 **Section 3. Water is a Public Asset.** The property in and the right to the
5 use, of all ground water in all surface water sources and in underground
6 sources including but not limited to the Northern Aquifer, wherever ground
7 water is found in Guam, are for all purposes vested in the government of
8 Guam and are conclusively deemed to have always been vested in the
9 government and is a public asset. No entity shall withdraw water from any
10 water source on Guam without the expressed authorization of the Guam
11 Waterworks Authority as provided for in its rules and regulations
12 promulgated pursuant to Section 7 of this Act. Nothing herein shall prohibit
13 the development of above ground water catchments systems and the rights to
14 the water collected by such systems shall belong to the owners of such
15 systems.

16 **Section 4. Prohibition Against Water Removal.** (1) No person shall
17 have any right

18 (a) to drill for, divert, extract, use or store water for removal from Guam

19 (b) to dispose of or sell water to a person for removal from Guam

20 (c) to convey or transport water for removal from Guam

21 (d) to remove water from Guam, or

22 (e) of property in respect of water removed or intended to be removed
23 from Guam.

24 (2) Notwithstanding any other enactment, a person who acquires water

1 originating in Guam from another person, whether directly or indirectly,
2 does not, by that acquisition acquire any of the rights described in
3 Subsection (a) through (e)

4 **Section 5. Prohibition Against Guam Water Removal.** A person must
5 not remove water from Guam except as that person

6 (a) is authorized by law, rule or regulation,

7 (b) removes the water in containers of five (5) gallon capacity or less, of
8 water that has been packaged in Guam, or

9 (c) obtained the water outside Guam and, at the time of the removal, is
10 in possession of evidence satisfactory to the Authority to that effect.

11 **Section 6. Exception for Water to be used in Transit.** Nothing in this
12 Act prohibits the removal of water from Guam in the ordinary course of
13 carrying the water in vehicles, vessels or aircraft for the use of persons,
14 animals or for the operation of the vehicle, vessels or aircraft, while the
15 persons or animals, as the case may be, are being transported in the vehicles,
16 vessels or aircraft.

17 **Section 7.** A new Section 14104.2 is hereby added to 12GCA Chapter 14
18 with Subsection (b) of P.L. 20-06:7 amended.

19 **“Priorities for Water Use.** All surface water and ground water in Guam
20 are declared to be a public asset and belong to all of the people of Guam
21 held in trust by the government of Guam. Such water shall be utilized
22 as follows:

23 (a) First priority shall be for use or resale by the Guam Waterworks

1 ~~Authority Public Utility Agency of Guam~~ for any purpose, or for
2 household use, for bonafide farms, plant nurseries, aquaculture,
3 ranches, other bonafide agricultural uses, for golf courses of less
4 than 4,000 square meters or for ornamental lawns and gardens of
5 less than 4,000 square meters.

6 (b) Second priority shall be for any other use by the government of
7 Guam for public recreation and for other public purposes only and
8 not for purposes enumerated in subsections (c) and (d) below.

9 (c) Third priority shall be for industrial use.

10 (d) Fourth priority shall be for irrigation of golf courses 4,000 square
11 meters or larger, or for irrigation of lawns or ornamental gardens of
12 4,000 square meters or larger.

13 (e) Fifth priority shall be for any other purposes.

14 Any use of higher priority shall have preference over any use of lower
15 priority regardless of which use was first in time.

16 As between water uses of equal priority, first in time shall have a
17 temporary priority to the extent of such prior use for so long as the water is
18 actually beneficially used on a regular or seasonal basis, but if not used such
19 temporary water right shall be deemed abandoned pursuant to the common
20 law.

21 The Authority shall certify that any approval of water service applications
22 pursuant to the priorities above will not diminish or impair the quality of
23 water service to customers with a higher priority.

24 The Guam Waterworks Authority shall within 120 days of the enactment,

1 adopt rules and regulations setting forth the application process and approval
2 for water withdrawn from any water source including but not limited to,
3 surface streams and rivers, wells and springs and from the aquifer by any
4 person (individual, corporate or government entity) other than the Guam
5 Waterworks Authority that seeks to withdraw water from any water source
6 on Guam.

7 All water rights and rights to use water shall be determined according to the
8 foregoing, and there shall be no riparian water rights in Guam. This Act
9 establishes priorities only, and shall not establish any vested water rights in
10 any person, other than in the Government of Guam.

11 ~~Until statutes further regulating the use of water are subsequently~~
12 ~~enacted into law, no permits not now required by law shall be required to use~~
13 ~~water not supplied by the Public Utility Agency of Guam in accordance with~~
14 ~~the foregoing priorities. Until subsequent law so provides, no fees or charges~~
15 ~~may be charged by the Government of Guam for the use of water other than~~
16 ~~fees and charges now authorized by law for water delivered by the Public~~
17 ~~Utility Agency of Guam."~~

18 **Section 8. Severability.** If any of the provisions of this Act or
19 the application thereof to any person or circumstance is held invalid, such
20 invalidity shall not affect any other provision or application of this Act which
21 can be given effect without the invalid provision or application, and to this
22 end the provisions of this Act are severable.