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**I MINA 'BENTE NUEBI NA LIHESLATURAN GUAHAN**  
**2008 (SECOND) Regular Session**

Bill No. 397 (EC)  
Introduced by:

J. V. Espaldon 

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AN ACT TO ADD A NEW ARTICLE TO TITLE 12,  
CHAPTER 14 OF THE GUAM CODE ANNOTATED  
RELATIVE TO AUTHORIZING EMERGENCY  
FINANCING OPTIONS FOR THE GUAM  
WATERWORKS AUTHORITY IN ORDER TO  
PROVIDE FOR THE EFFICIENT AND ORDERLY  
OPERATIONS OF THE GUAM WATERWORKS  
AUTHORITY AND TO PROMOTE GROWTH ON  
GUAM FOR THE BETTERMENT OF ALL IT'S  
RESIDENTS.

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

1           **SECTION 1. Legislative Intent.** *I Liheslaturan Guåhan* finds that the Guam  
2 Waterworks Authority recently imposed a temporary moratorium on sewer connections in  
3 Central Guam in order to prevent sewage overflows that pose an threat to human health and  
4 ensure compliance with the Clean Water Act, however, that moratorium has had an  
5 understandable, albeit adverse impact on the course of economic development on Guam by either  
6 delaying or scrapping construction projects which has in turn caused either a temporary or  
7 permanent loss of revenue for the Government of Guam through increased taxes on those  
8 activities and the resultant economic use and the loss of income from those seeking to develop  
9 their properties.

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11           *I Liheslaturan Guåhan* further finds that given the Guam Waterworks Authority has  
12 neither the time nor the luxury of procuring construction or financing a fix to the moratorium in  
13 the traditional methods provide for under Guam law in light of the problems in the world credit  
14 markets and since the Guam Economic Development Authoirty has recently learned from  
15 GWA's bond underwriters that it would be unlikely to issue bonds in the near future thereby  
16 making the declaration of an emergency inevitable in order to not impede economic growth  
17 which is so important to the long-term well being of Guam's citizens.

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19           *I Liheslaturan Guåhan* further declares that the aforementioned moratorium and similar  
20 capacity related problems which may arise from time-to-time are an emergency and as such, do  
21 hereby authorize the Guam Waterworks Authority to enter into financing and construction

1 contracts, subject to regulatory oversight from the Guam Economic Development Authority and  
2 the Guam Public Utilities Commission.

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4 **SECTION 2.** Section 14241 is hereby added to Chapter 14, Title 12 of the Guam Code  
5 Annotated and read as follows:

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7 **“§ 14240. Approval of Financing and Construction Options to Alleviate Emergency**  
8 **Conditions in the Guam Waterworks Authority’s Water and Wastewater System.**  
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10 (a) Notwithstanding any other provision of law, in order to eliminate the emergency that  
11 currently exists relative to the current Guam Waterworks Authority’s moratorium on  
12 sewer connections in Central Guam, and for other such emergencies that may arise from  
13 time to time in the future, the Guam Waterworks Authority is hereby authorized to enter  
14 into long-term and short-term financing agreements, credit facilities and other  
15 construction and procurement models which are necessary to rapidly alleviate such  
16 emergency conditions in order to promote economic growth on Guam for the betterment  
17 of all, provided however, that said financing shall be issued subject to the terms and  
18 conditions of GWA’s 2005 Series Bond Indenture and any other supplemental indenture  
19 issued by the Authority under Public Law 28-71.

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21 (b) Financing agreements, credit facilities and procurement methods can include, but are  
22 not limited to the following:

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24 i. qualified public activity bonds;  
25 ii. certificates of participation;  
26 iii. design-build-finance agreements;  
27 iv. build-operate-transfer agreements;  
28 v. build-lease agreements;  
29 vi. lease-to-own agreements; and  
30 vii. any other credit facility or financing agreement approved by the  
31 Consolidated Commission on Utilities.

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33 (c) All contracts for financing and construction entered into under this section  
34 shall be subject to the approval of the Guam Public Utilities Commission under  
35 the Contract Review Protocol.

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37 (d) All financing entered into under this section shall issue through the Guam  
38 Economic Development Authority if otherwise required by law based upon the  
39 amounts involved and duration.

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41 (e) prior to issuing any financing under this provision, the Guam Waterworks  
42 Authority shall obtain a legal opinion from a licensed Bond Counsel designated  
43 by the Authority who possesses a national reputation for expertise in matters  
44 relating to governmental obligations the interest on which is excluded from gross  
45 income for federal income tax purposes under Section 103 of the United States’  
46 Internal Revenue Code.

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(f) In view of the urgency for the procurement in order to lift the moratorium in Central Guam, and for other such similar emergency situations that may arise in the future as declared by the Consolidated Commission on Utilities, the requirements of Chapter 5, Title 5, Guam Code Annotated are hereby waived and the Guam Waterworks Authority is hereby authorized to utilize such method of source selection as it deems necessary, subject to the approval of the Guam Public Utilities Commission under the Contract Review Protocol.