


I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN  
2011 (FIRST) Regular Session

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Bill No. 71-31(Cor)

Introduced by:

ADOLPHO B. PALACIOS, SR.

AN ACT RELATIVE TO EXPANDING THE  
OPTIONS OF FINANCING AVAILABLE TO THE  
GOVERNMENT OF GUAM FOR THE  
CONSTRUCTION OR ACQUISITION OF  
PERMANENT PUBLIC SAFETY FACILITIES BY  
GRANTING THE USE OF TAX CREDITS AS A  
FORM OF PAYMENT; THROUGH ADDING A  
NEW §59107.1 TO CHAPTER 59 OF TITLE 5,  
GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 The *Liheslaturan Guahan* finds that local mandates have existed  
4 for more than five years that would allow for the construction of  
5 government-owned buildings and facilities to permanently house  
6 Guam's public safety agencies, which include the Guam Police  
7 Department, Guam Fire Department, the Department of Corrections,  
8 Customs and Quarantine Agency of Guam, and the Department of  
9 Law. Unfortunately, due to limited financial capabilities within the  
10 government of Guam, the construction or acquisition of a permanent  
11 facility for any of these agencies have yet to materialize over this  
12 timeframe.

1           The *Liheslaturan Guahan* further finds that in addition to  
2 identifying and providing for a specific funding source of repayment  
3 for any financial arrangement for permanent building facilities  
4 another option is available to the government of Guam, which has  
5 proven to be an acceptable mode of repayment to private business  
6 contractors in recent history. This is the application of tax credits as a  
7 form of repayment for lease arrangements of major building  
8 complexes, the provision of specific services, or the construction of  
9 multiple facilities. Because this has recently become an acceptable  
10 form of payment on behalf of the government of Guam, the  
11 *Liheslaturan Guahan* also finds that the eventual construction of  
12 permanent buildings and other permanent facilities for Guam's  
13 public safety departments and agencies should be aggressively  
14 addressed in the upcoming years.

15           Therefore, this measure would expand the options available for  
16 the government of Guam to utilize and incorporate the use of tax  
17 credits as a payment alternative for contractors that provide direct  
18 support and service to the island's public safety agencies in the  
19 construction of their respective permanent facilities.

20           **Section 2. Application of Tax Credits for the Construction of**  
21 **Permanent Facilities for Guam's Public Safety Agencies.**

1 §59107.1 is hereby added to Chapter 59 of Title 5, Guam Code  
2 Annotated, relative to the application of tax credits for payment, to  
3 read as follows:

4 **“§59107.1 Application of Tax Credits for Payment.**

5 In lieu of any cash payment from the government of Guam to  
6 the Contractor for construction and associated expenses, the  
7 government is authorized to issue tax credits. The tax credits  
8 authorized under this Act *shall* be permitted as follows:

9 (a) The Contractor may utilize tax credits for the payment of  
10 expenses against Business Privilege Taxes, as contained within  
11 Chapter 26 of Title 11, Guam Code Annotated.

12 (b) The parties or persons entitled to utilize the credits as set  
13 forth in this Act *shall* be as follows:

14 (1) If the Contractor is a corporation, then the Contractor  
15 and any shareholder owning or holding a minimum of  
16 five percent (5%) in the corporation *shall* also have the  
17 right to use the credits.

18 (2) If the Contractor is a partnership, then all the partners  
19 *shall* have the right to use the credits. *If* a partner is a  
20 corporation, then the rights as set forth above concerning  
21 corporations *shall* apply to the corporation and its  
22 shareholders.

1           (3) If the Contractor is a person or persons, then such  
2           rights *shall* apply to a person or persons.

3           (c) The tax credit authorized herein *shall* be freely assignable  
4           and transferable to any party, company, partnership or corporation.  
5           The assignment and transfer may be by gift or may be for legal  
6           consideration. Any assignment and/or transfer *shall* be in writing,  
7           notarized, and an original thereof *shall* be filed with the Guam  
8           Economic Development Agency (GEDA), with a copy to the  
9           Department of Revenue and Taxation.

10          d.) The Guam Economic Development Agency (GEDA) *shall*  
11          submit an annual report to *I Liheslaturan Guahan* detailing the impact  
12          of this Act on the Business Privilege Taxes, until the amount of the  
13          tax credit is fully exhausted.

14          e.) *I Maga'lahren Guahan* shall, in each fiscal year's budget  
15          submission to *I Liheslatura*, account for the annual amount of tax  
16          credits used for the purposes stated in this Act."

17           **Section 3. Effective Date.**

18           The provisions contained in this Act shall be effective and  
19           applicable upon the implementation of the requirements set forth in  
20           the Public Safety Facilities Construction Initiative Act, as provided  
21           for in Chapter 59, Title 5, Guam Code Annotated.

22           **Section 4. Severability.**

1           If any provision of this Act or its application to any person or  
2   circumstance is found to be invalid or contrary to law, such invalidity  
3   shall not affect other provisions or applications of this Act which can  
4   be given effect without the invalid provisions application, and to this  
5   end the provisions of this Act are severable.