






I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (First) Regular Session

Bill No. 79 - 31 (COR)

Introduced by:

T.C. Ada 
R.J. Respicio 
J.P. Guthertz, DPA 

V.A. Ada 
T.R. Muña Barnes 

AN ACT TO REPREAL ARTICLE 3, CHAPTER 10, TITLE 12 OF THE GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE BOARD OF DIRECTORS OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT (“THE PORT”) TO ENTER INTO A PUBLIC-PRIVATE PARTNERSHIP CONTRACT, LEASE AGREEMENT, AND OPERATING PERMIT FOR TERMINAL OPERATIONS AND MAINTENANCE OF THE JOSE D. LEON GUERRERO COMMERCIAL PORT; AND TO ADD A NEW ARTICLE 3, CHAPTER 10, TITLE 12 OF THE GUAM CODE ANNOTATED RELATIVE TO THE PROHIBITION OF THE PRIVATIZATION, SALE OR LEASE OF THE PORT.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the enactment of P.L. 27-60 and then the subsequent enactment of P.L. 29-23
4 created an ideological conflict requiring *I Liheslaturan Guåhan* to take immediate
5 legislative action delineated herein.

6 P.L. 27-60, enacted on December 21, 2003, authorizes the Board of
7 Directors for the Jose D. Leon Guerrero Commercial Port (“Port”) to enter into a
8 Public-Private Partnership, Contract, Lease Agreement, and Operating Permit for
9 its terminal operations and maintenance. Meanwhile, P.L. 29-23, enacted on

1 October 24, 2007 authorizes this same Board of Directors to enter into a Public-
2 Private Partnership through a Performance Management Contract for the
3 management, operation, and maintenance of the Port Cargo Handling Equipment
4 or facilities associated with such equipment or other aspects of the Port's
5 Operations.

6 *I Liheslaturan Guåhan* asserts that while P.L. 27-60 was well intentioned by
7 mandating that the manner of privatization was to take the form of a Public Private
8 Partnership (“PPP”), allowing for an infusion of private capital while ensuring
9 decisions are left to the Port’s management and staff. This course ensures that the
10 full control of all assets and total ownership of the Port remain with the people of
11 Guam. However, *I Liheslaturan Guåhan* believes that there have been attempts,
12 albeit unsuccessful, to move forward with the full privatization of the Port beyond
13 a PPP arrangement. This led to the subsequent enactment of P.L. 29-23 mandating
14 a Performance Management Contract (“PMC”) whereby the Port employees
15 provide the labor component of the business, and the new private partner provides
16 the capital, technical expertise, and supply chain to strengthen the cargo handling
17 component of Port operations thereby ensuring operational reliability and the
18 timely discharge and loading of vessels. Although there is a contract on the
19 performance of cargo handling equipment and yard operations, the Port’s
20 management and staff are not supplanted and control remains with the Port’s
21 Board of Directors, and ultimately remains in the hands of the people of Guam.

22 Therefore, *I Liheslaturan Guåhan* believes that it is in the best interest of the
23 people of Guam, even more so during this Military Buildup period, to repeal all of
24 Article 3, Chapter 10 of the Title 12 of the Guam Code Annotated, in order to
25 prevent the Port from being privatized, leased, or sold.

