


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

Bill No. 342-31 (Gov)

2011 OCT 10
M. Silva
10:05

Introduced by:

M. Silva Taijeron 

**AN ACT TO AMEND §58104, CHAPTER 58, TITLE 12 OF THE
GUAM CODE ANNOTATED RELATIVE TO THE
INCLUSION OF GREEN TECHNOLOGY AS AN
ACCEPTABLE ACTIVITY FOR ELIGIBILITY OF A
QUALIFYING CERTIFICATE APPLICATION.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 the Qualifying Certificate program was created as an economic incentive to entice
4 potential investors to Guam. Qualifying Certificates are granted on the basis of
5 investment commitment, the potential for creating new employment and the
6 expansion of island industries. According the Guam Economic Development
7 Authority, the Qualifying Certificate program has realized approximately one billion,
8 five hundred million dollars (\$1,500,000,000.00) since its inception.

9 *I Liheslaturan Guåhan* further finds that when an application is approved, a
10 contract is executed between the government of Guam and the beneficiary of the
11 Qualifying Certificate. This contract allows for certain tax rebates and abatements on
12 the basis that the beneficiary meets certain requirements, including employment and
13 investment, pursuant to existing statute.

1 *I Liheslaturan Guåhan* further finds that Guam is home to many natural
2 resources including its waters, winds and land. In recent years, there have been
3 collective efforts to identify innovative ways of preserving and protecting our
4 environment. There must be a concerted attempt to expand local industries in Guam
5 that strengthen and reinforce current environmental and conservation efforts.
6 Therefore, it is the intent of *I Liheslaturan Guåhan* to ensure that green technology is
7 an acceptable activity for eligibility of a Qualifying Certificate application.

8 **Section 2.** §58104, Chapter 58, Title 12 of the Guam Code Annotated is
9 hereby *amended* to read:

10 **“§ 58104. Eligibility Defined.**

11 A Qualifying Certificate *shall* only be issued to the following entities:

12
13 Any trust, partnership, *sole* proprietorship, Limited Liability Partnership
14 (LLP), Limited Liability Company (LLC), corporation formed under the laws
15 of Guam, *or* possessions corporation as defined in §58106 of this Chapter,
16 engaged, *or* about to engage in any of the following activities:

- 17 (1) agriculture;
18 (2) aquaculture;
19 (3) mariculture;
20 (4) manufacturing;
21 (5) commercial fishing;
22 (6) services;
23 (7) tourism;

1 (8) improvement of real property for purposes which are specifically
2 determined by the Authority to be beneficial, desirable, and necessary for
3 the economic development of Guam;

4 (9) insurance issuance, either by commercial insurers, reinsurers, *or*
5 captive insurers which meet the requirements of Title 22, GCA, Chapter
6 15, Article 3;

7 (10) export trading company, as defined in Title 11, GCA, §26101(d), *if*
8 the main office of the export trading company is established on Guam;

9 (11) producing water *or* disposing of wastewater, *or* both, jointly with
10 the Guam Waterworks Authority;

11 (12) operating on a military base on Guam a Base Operating Service
12 Contract;

13 (13) a small business entity operating on a military base on Guam, a Base
14 Operating Service contract, *or* as a subcontractor to a BOS Contractor;
15 and

16 (14) a global internet infrastructure services company(ies) providing
17 Internet connectivity and co-location facilities and its/their tenant-sellers
18 in the sales of goods, services and information over the Internet;
19 provided that:

20 (i) the seller is legally established in and operates from Guam;

21 (ii) the sale does *not* include the local sale of goods, services and
22 information;

23 (iii) the sale is conducted exclusively through the Internet; and

24 (iv) the seller does *not* sell *or* distribute in any fashion material
25 that is harmful to minors as that term is defined in the Internet Tax

1 Freedom Act, a part of the Omnibus Appropriations Act of 1998,
2 Public Law Number 105-277. For purposes of this Paragraph, a
3 "minor" is a person under the age of eighteen (18).

4 (15) The manufacture, distribution and sale of non-petroleum based fuels
5 that include, but are *not* limited to biofuels such biodiesel and ethanol
6 and hydrogen fuels.

7 (16) The establishment of industries and activities that support current
8 initiatives associated with the preservation and protection of Guam's
9 natural resources, also known as green technology. Such industries and
10 activities shall include, but not be limited to, energy efficiency,
11 renewable energy and environmental cleanup."

12 **Section 3. Enactment.** The provisions of this Act shall become effective
13 ninety (90) days upon enactment.

14 **Section 4. Severability.** *If* any provision of this Law or its application to any
15 person or circumstance is found to be invalid or contrary to law, such invalidity shall
16 *not* affect other provisions or applications of this Law which can be given effect
17 without the invalid provisions or application, and to this end the provisions of this
18 Law are severable.