

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

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Bill No. 343-31 (cor)

Introduced by:

T. R. Muña Barnes

**AN ACT TO CREATE THE GUAM FILM OFFICE BY ADDING A  
NEW ARTICLE 4 TO CHAPTER 50 OF DIVISION 2 OF TITLE 12,  
GUAM CODE ANNOTATED.**

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

**Section 1.** A new Article 4 is here *added* to Chapter 50 of Division 2 of Title 12, Guam Code Annotated, to read:

**“Article 4**

**Guam Film Office**

**§50401. Definitions.**

**§50402. Guam Film Office.**

**§50403. Rules and Regulations.**

**§50404. Powers and Duties.**

**§50405. Guam Film Office Fund.**

**§50406. Permits Required.**

**§50407. General Exemptions.**

**§50408. Local Production Companies Exempt.**

**§50409. Applicants and Issuance.**

**§50410. Indemnification of Government Against Liability.**

**§504011. Insurance and Bonding Required.**

**§504012. Effective Date.**

1           **§50413.                   Severability.**

2           **§50401. Definitions.**

3           a)       “Administrator” means the administrator of the Guam Film  
4                   Office, who *shall* be the Director of the Guam Economic  
5                   Development Authority or his/her designee.

6           b)       “Charitable or student films” *shall* mean commercials, motion  
7                   pictures, television, videotapes, or still photography produced by a  
8                   nonprofit organization that is registered with the Department of  
9                   Revenue and Taxation or the Internal Revenue Service as a charitable  
10                  organization or is produced by students of an educational institution,  
11                  and for which no person, directly or indirectly, *shall* receive a profit  
12                  from the marketing and production of the film or from showing the  
13                  films, tapes, or photos.

14          c)       “Commercial films,” *shall* mean and include all activity attendant  
15                  to filming any entertainment or advertising programs for any media  
16                  now known or hereafter created.

17          d)       “Filming”/”Production” *shall* mean and include all activity  
18                  attendant to staging or shooting commercial motion pictures,  
19                  television shows or programs, and commercial still photography,  
20                  video tapes, computer-based programs, or other visual reproduction  
21                  technology now known or hereafter created. The period of filming  
22                  includes the set-up, strike and time of photography.

23          e)       “Government” *shall* mean the Government of Guam, its  
24                  authorized agents, officers, representatives and employees of  
25                  departments, agencies, autonomous agencies, offices or  
26                  instrumentalities.

27          f)       “News Media” *shall* mean the photographing, filming or

1 videotaping for the purpose of spontaneous, unplanned television  
2 news broadcast or reporting for print media by journalists, reporters,  
3 photographers or camera operators.

4 g) "Private Property" *shall* mean any property not owned by the  
5 Government of Guam on which filming would not interfere with  
6 public right of way, access or safety.

7 h) "Studio" *shall* mean a fixed place of business where filming  
8 activities (motion or still photography) are regularly conducted upon  
9 the premises.

10 **§50402. Guam Film Office.**

11 There is hereby established within the Guam Economic Development  
12 Authority a Guam Film Office. The Administrator of the Guam Economic  
13 Development Authority *shall* be responsible for the administration of the  
14 Guam Film Office.

15 **§50403. Rules and Regulations.**

16 a) Rules and Regulations. The Administrator *shall* establish a  
17 committee comprised of individuals and representatives of Non  
18 Governmental Organizations that have substantial experience in the  
19 film, video and media fields in order to cause the promulgation of rules,  
20 regulations and fees to govern the form, time and location of filming  
21 activity set forth within Guam. The committee *shall* allow for the full  
22 participation of any member of the public during its deliberations. The  
23 rules and regulations *shall* also provide for the issuance of permits,  
24 notification of permit denial and a process of appeal. The rules,  
25 regulations, and fees *shall* be adopted in accordance with the  
26 Administrative Adjudication Act, Title 5 Guam Code Annotated,

1 Chapter 9, within ninety (90) days upon the enactment of this Article.

2 The rules and regulations *shall* be based upon the following criteria:

- 3 1. The health and safety of all persons;
- 4 2. Avoidance of undue disruption of all persons within the  
5 affected area;
- 6 3. The safety of property in Guam; and
- 7 4. Traffic congestion at particular locations in Guam

8 **§50404. Powers and Duties.** The Guam Film Office *shall* have the following  
9 powers and duties:

10 a) To promote, encourage and advertise the use of Guam facilities  
11 and services for the production of films, videos, television programs, audio  
12 recordings, computer-generated and other media-related products.

13 b) To provide support services to visiting and local production  
14 companies, including assistance to film, video and media producers in  
15 securing necessary permits or permissions from government of Guam  
16 authorized agents, officers, representatives and employees of departments,  
17 agencies, autonomous agencies, offices or instrumentalities.

18 c) To develop and update annually a resource guide of viable  
19 filming locations in Guam, available video and media production facilities,  
20 permitting requirements, and tax incentives.

21 d) To work in coordination with the Guam Visitors Bureau to  
22 conduct and attend trade shows and production workshops to promote  
23 Guam to the national and international film industries.

24 e) To promote and attract business activities in film, video,  
25 computer-generated and other media production activity in Guam and take  
26 any other administrative action which may improve Guam's film, video and  
27 media production industries in national and international markets.

1 f) To accept any funds, gifts, donations, bequests or grants of funds  
2 from private, federal, and public sources for the purpose of this Act.

3 g) To create a “one stop permitting” process by formulating and  
4 proposing rules and regulations for standardized permits which *shall* be  
5 used by government of Guam, its authorized agents, officers,  
6 representatives and employees of departments, agencies, autonomous  
7 agencies, offices or instrumentalities to include any requirements set forth  
8 in this Act.

9 **§50405. Guam Film Office Fund.** There is established a fund to be known as  
10 the Guam Film Office Fund, which *shall* be administered by the Guam  
11 Economic Development Authority Guam Film Office and be maintained  
12 separate and apart from any other funds of the government of Guam,  
13 including the General Fund of the government of Guam. Independent  
14 records and accounts *shall* be maintained in connection therewith. Funds of  
15 the Guam Film Office Fund *shall* be used exclusively for the administration  
16 and operations of the Guam Film Office. All funds collected from fees,  
17 charges or fines levied pursuant to this Chapter *shall* be deposited into the  
18 Guam Film Office Fund and all interest earned by the Guam Film Office  
19 Fund *shall* accrue. Any unencumbered funds remaining in the Guam Film  
20 Office Fund at the end of each fiscal year *shall* remain in that Fund. The  
21 Guam Film Office Fund *shall* be subject to audits by the Office of Public  
22 Accountability.

23 **§50406. Permits Required.**

24 a) Permit Required. No person *shall* use any government street, alley,  
25 sidewalk, park, pier, way or other public property owned or controlled  
26 by the Government of Guam for the purpose of making commercial  
27 films without first applying for and receiving a permit from the Guam

1 Film Office Administrator or his/her designee, provided that the  
2 provisions of this chapter *shall* not apply to or be construed to affect (1)  
3 news media and (2) filming solely for private-family use.

4 b) No person *shall* use any private property for the purpose of making  
5 commercial films without first applying for and receiving a permit from  
6 the Guam Film Office Administrator or his/her designee.  
7 Notwithstanding the foregoing, the provisions of this chapter *shall* not  
8 apply to or be construed to affect the following filming on private  
9 property:

- 10 1. Filming which requires no parking variances and uses no  
11 public property or rights of way on public property;
- 12 2. Filming which does not impair the quiet enjoyment of  
13 the surrounding properties;
- 14 3. Filming which does not involve the use of any  
15 pyrotechnic devices;
- 16 4. A licensed business which regularly employs a licensed  
17 pyrotechnic operator;
- 18 5. Filming by news media;
- 19 6. Filming solely for private-family use; or
- 20 7. Filming which does not interfere with the public's use of  
21 government property.

22 c) Except as provided herein, each applicant must comply with all local  
23 and federal laws and regulations, and must obtain all necessary permits  
24 and licenses as a precondition for the commencement of commercial  
25 film production hereunder. Thereafter, the permittee *shall* remain in full  
26 compliance with all local and federal laws, regulations, permits and  
27 licenses throughout the filming.

1 d) Upon reasonable notice by the applicant, the Administrator or his/her  
2 designee is authorized, upon showing of good cause, to change the  
3 conditions under which a permit has been issued, provided that the  
4 requirements of this chapter are met and the government of Guam  
5 department, agency, autonomous agency, office or instrumentality can  
6 undertake all necessary administrative review within the time requested.

7 **§50407. General Exemptions.** The provisions of this Article *shall* not apply  
8 to or affect:

9 A. News Media. Reporters, photographers or cameramen in the  
10 employ of a newspaper, news service, or similar entity  
11 engaged in the on-the-spot broadcasting of news events  
12 concerning those persons, scenes or occurrences which are in  
13 the news and of general public interest, including sporting  
14 events.

15 B. Private/Family Use. The filming or video taping of motion  
16 pictures solely for private/family use.

17 C. Charitable Films and Student Films. Projects produced by a  
18 nonprofit organization that is registered with the Department  
19 of Revenue and Taxation or the Internal Revenue Service as  
20 a charitable organization or produced by a student(s) of an  
21 educational institution.

22 D. Small Crews. If the crew does not exceed five persons and  
23 there is no extensive use of props, equipment, cast or other  
24 participants, the small crew *shall* be exempt if the following  
25 conditions are met:

- 26 1. The crew is filming a parade, demonstration or other  
27 special event and has obtained all permission that may

1 be required. The exemption *shall* allow them to operate  
2 on the same basis as a citizen with a camera; or

- 3 2. Pedestrian and vehicular traffic is not altered; and
- 4 3. No special parking provisions are included; and
- 5 4. No stunt work is performed; and
- 6 5. Permission is obtained from controlling authorities  
7 to use Government of Guam property, other than  
8 sidewalks and streets; and
- 9 6. Permission is obtained from owners to use private  
10 property where applicable.

11 **§50408. Local Production Companies Exempt.** In addition to the General  
12 Exemptions authorized in §50407 of this act, the provisions of this Article  
13 and the rules, regulations, and requirements authorized herein *shall* not  
14 apply to or affect local production companies if:

- 15 1. The production company was incorporated in Guam.
- 16 2. Principal owner(s) is a resident of Guam and has  
17 filed individual tax returns in Guam for a period of  
18 at least three (3) years.
- 19 3. The production company maintains its headquarters  
20 in Guam.
- 21 4. The production company is licensed to do business  
22 in Guam.
- 23 5. The daily operations of the production company are  
24 managed by a resident of Guam.

25 **§50409. Applicants and Issuance.**

- 26 a) Issuing Authority. The issuing authority *shall* be the Guam Film  
27 Office Administrator.



1 b) Applications. Each application for filming under this chapter must  
2 be completed in full and filed with the Administrator or his/her designee

3 c) The permit application *shall* be in a form the Administrator  
4 or his/her designee may reasonably require. In lieu of the foregoing, the  
5 applicant may submit the permit application on the form adopted and in  
6 use by the Guam Film Office.

7 d) The Administrator or his/her designee may refer the application to  
8 such appropriate government department, agency, autonomous agency,  
9 office or instrumentality as are directly impacted by the application and  
10 as he/she deems necessary from the nature of the application for review,  
11 evaluation, investigation and recommendations by the department,  
12 agency, autonomous agency, office or instrumentality regarding  
13 approval or disapproval of the application.

14 e) The Administrator or his/her designee *shall* issue a permit under this  
15 chapter if it is determined that the following criteria have been met:

16 1. The proposed use will not unreasonably interfere with or  
17 endanger the public peace or rights of nearby residents to  
18 the quiet, peaceable enjoyment of their property, or  
19 otherwise be detrimental to the public peace, health, safety  
20 or general welfare;

21 2. The proposed use will not unduly impede, obstruct or  
22 interfere with the operation of emergency vehicles or  
23 equipment in or through the permit area, or adversely affect  
24 the government's ability to perform municipal functions or  
25 furnish government services in the vicinity of the permitted  
26 area; and

1                                   3. The proposed use will not constitute a fire or safety hazard  
2                                   and all proper safety precautions will be taken as is  
3                                   reasonably necessary to protect the public peace, health,  
4                                   safety or general welfare.

5                   f) The Administrator or his/her designee *shall* deny the permit if the  
6                   conditions of this chapter and all applicable laws and regulations have  
7                   not been met or if the application contains incomplete or false  
8                   information. No permit *shall* be denied without a clear written  
9                   explanation of the reasons compelling a denial and the process by which  
10                  said denial may be appealed.

11                  g) The Administrator or his/her designee may immediately revoke or  
12                  suspend a permit which has been granted, if the conditions of this  
13                  chapter and all applicable laws and regulations are no longer being met,  
14                  if the information supplied by the applicant becomes, or is determined to  
15                  be, false or incomplete, or if any substantial change in circumstances  
16                  results in the proposed use becoming detrimental to the public peace,  
17                  health, safety or general welfare.

18                  h) The Guam Economic Development Authority Compliance and Audit  
19                  Department *shall* conduct production site inspections and monitoring.

20                  i) Reimbursement for Personnel. The production company *shall*  
21                  reimburse the Government of Guam for any personnel provided to the  
22                  company, (i.e. police, fire, traffic control, medical personnel) for the  
23                  purpose of assisting the production. Any cost *shall* be negotiated, and  
24                  approved, prior to shoot date. A fee for issuance of the permit *shall* be  
25                  set by the advisory committee.

26                  **§50410. Indemnification of Government Against Liability.**

1 a) Prior and as a condition precedent to the granting of a permit under  
2 this chapter, each applicant *shall* agree to indemnify, defend and hold  
3 the Government of Guam, its authorized agents, officers, representatives  
4 and employees harmless from and against any and all losses, damages  
5 claims, causes of action, costs, liabilities, penalties, judgments and  
6 expenses, including without limitation, defense costs and reasonable  
7 legal fees, resulting from any and all claims or damage of any nature,  
8 including any accident, loss or damage to persons or property which the  
9 government may incur and which arise from or relate to any activity  
10 conducted by the permittee or any of its agents, employees,  
11 representatives, contractors or consultants in connection with the rights  
12 granted in the permit or under this chapter. The form of the  
13 indemnification agreement *shall* be as determined by the Attorney  
14 General of Guam.

15 **§50411. Insurance and Bonding Required.**

16 (a) Liability Insurance. As a condition of issuance of a permit  
17 hereunder, every permittee must procure and maintain in full force and  
18 effect during the term of the permit a policy (or policies) of insurance  
19 from an insurance company licensed to do business in Guam naming the  
20 Government of Guam, it's officers, employees and agents as coinsured  
21 for protection against claims of third persons for any and all liability of  
22 permittee with respect to its obligations and liabilities under its permit  
23 and this chapter and its indemnities, including, but not limited to,  
24 commercial general liability insurance on an "occurrence" basis against  
25 claims for personal injury, including death, bodily injury or property  
26 damage liability, and in an amount no less than one million dollars  
27 (\$1,000,000.00), and which otherwise provides sufficient coverage that

1 the Administrator or his/her designee determines to be necessary and  
2 adequate under the circumstances. The certificate *shall* not be subject to  
3 cancellation or modification until after thirty days' written notice to the  
4 Guam Film Office. Prior to issuance of any permit, a copy of the  
5 certificate of insurance *shall* be provided to the Insurance  
6 Commissioner. A copy of the certificate will remain on permanent file.

7 (b) Worker's Compensation Insurance. An applicant *shall* conform to  
8 all applicable federal and local requirements for worker's compensation  
9 insurance for all persons operating under a permit.

10 (c) Hold Harmless Agreement. An applicant *shall* execute a hold  
11 harmless agreement as provided by the Government of Guam and  
12 incorporated within the permit issued under this chapter.

13 (d) Faithful Performance Bond. To ensure cleanup and restoration of  
14 any public property involved in the filming, the permittee may be  
15 required to post a refundable Faithful Performance Bond (amount to be  
16 determined by Rules and Regulations), cash surety or other comparable  
17 form of security guarantee at the time application is submitted. Upon  
18 completion of filming, cleanup and restoration and a satisfactory  
19 inspection of the site by Guam Film Office Administrator or his/her  
20 designee, the bond may be returned to applicant.

21 **§50412. Effective Date.** This Article *shall* be effective 180 days after the  
22 date of enactment.

23 **§50413. Severability.** *If* any provision of this law or its application to any  
24 person or circumstances is found to be invalid or contrary to law, such  
25 invalidity *shall not* affect other provisions or applications of this law, which

1 can be given effect without the invalid provisions or applications, and to  
2 this end the provisions of this law are severable.”