

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN

2012 (SECOND) Regular Session

2012 SEP 19 PM 4: 10

Bill No. 5 14-31 (COR)

Introduced by:

V. C. Pangelinan
J.T. Won Pat, Ed.D.
B.J.F. Cruz
T.R.M Barnes

AN ACT TO AMEND SECTION 1512.3(a)(2)(B) OF ARTICLE 5, CHAPTER 1, TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO PRIORITIZING THE PAYMENT OF INCOME TAX REFUND WITH THE REMAINING \$18 MILLION OF SERIES B BOND PROCEEDS

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Statement and Intent.** *I Liheslaturan Guåhan*
2 finds that the payment of past-due Income Tax Refunds is a top priority of *I*
3 *Liheslatura*. Such priority was and continues to be apparent in *I Liheslatura's*
4 passing of Public Law 31-76 and Public Law 31-196, which authorized the
5 government of Guam to borrow a total of approximately \$260 million to pay
6 past-due Income Tax Refunds to the people of Guam. Furthermore, in the
7 passing and enactment of the *General Appropriations Act of Fiscal Year 2013*,
8 the amount of \$100 million in Income Tax Refunds was set-aside before any
9 other expenditures of the government of Guam, which signifies this
10 continued prioritization of the payment of Income Tax Refunds.

1 *I Liheslaturan Guåhan* further finds that the Public Law 31-76
2 authorized the Series A bond and Public Law 31-196 authorized the Series B
3 bond. In the Series B bond issuance after the payment of approximately \$60
4 million in past-due Income Tax Refunds *I Liheslaturan Guåhan* finds that
5 there remains approximately \$18 million in bond proceeds that has not been
6 expended.

7 *I Liheslaturan Guåhan* further finds that Public Law 31-196, the Series B
8 bond authorization, mandated *I Maga'låhen Guåhan* to use the Series B bond
9 proceeds for the following options: (1) the design, construction, re-
10 construction, rehabilitation, maintenance, renovation of government of
11 Guam or Guam Department of Education-owned school facilities, and/or
12 procurement and preventive maintenance of school buses; and/or (2) the
13 payment of unpaid income tax refunds for tax year 2011; and/or (3) if no
14 alternate source of funding is available, the payment of health insurance
15 premiums for Fiscal Year 2012.

16 *I Liheslaturan Guåhan* further finds that *I Maga'låhen Guåhan* chose to
17 prioritize the use \$18 million of Fiscal Year 2012 revenue collections that
18 were budgeted to pay income tax refunds to fund the Fiscal Year 2012
19 payments to the health insurance instead of paying Income Tax Refunds. It
20 is the finding of *I Liheslatura* that there still remains proceeds of the \$18
21 million in Series B bond issue that have yet to be expended, with Fiscal Year
22 2013 fast approaching, which illustrates that *I Maga'låhen Guåhan* used Fiscal

1 Year 2012 revenue collections to fund Fiscal Year 2012 health insurance
2 premiums.

3 With *I Liheslatura's* prioritization of the payment of past-due Income
4 Tax Refunds, it is the intent of *I Liheslaturan Guåhan* to require the remaining
5 of the \$18 million of Series B bond proceeds be reimbursed directly to the
6 Income Tax Refund Efficient Payment Trust Fund and then be used to pay
7 Income Tax Refunds for Tax Years 2012 and prior.

8 **Section 2.** Section 1512.3(a)(2)(B) of Article 5, Chapter 1, Title 5 of the
9 Guam Code Annotated is hereby *amended* to read:

10 “(B) the remaining balance of bond proceeds such that the debt to the
11 GGRF identified in §1512.3(a)(2)(A) of Article 5, Chapter 1, Title 5, Guam
12 Code Annotated is paid, *shall* be used, in any amount, for any of the
13 following:

14 (i) the design, construction, re-construction, rehabilitation,
15 maintenance, renovation of government of Guam or Guam
16 Department of Education-owned school facilities, and/or procurement
17 and preventive maintenance of school buses. A “School Facility” *shall*
18 mean school campus facilities including any structure or structures,
19 together with all ancillary facilities, including parking facilities,
20 utilities, infrastructure and equipment associated with providing the
21 educational or related services required by the Guam Department of
22 Education and may include an existing school facility being
23 rehabilitated; and/or

1 (ii) the payment of unpaid income tax refunds for tax year
2 201112 and prior; and/or

3 ~~(iii) if no alternate source of funding is available, the payment~~
4 ~~of health insurance premiums for Fiscal Year 2012."~~

5 **Section 3.** Reaffirmation of Section 1512.3(o) of Article 5, Chapter 1,
6 Title 5 of the Guam Code Annotated.

7 “(o) Deposit of Bond Proceeds to Pay Income Tax Refunds. The
8 portion of the bond proceeds authorized by this Section that is mandated to
9 pay income tax refunds shall be transferred immediately after receipt thereof
10 by the bond trustee into the Income Tax Reserve Fund and shall be
11 considered separate and apart from any required deposits in Title 11, Guam
12 Code Annotated, Chapters 50 and 51, and shall not be credited toward any
13 required deposits in Title 11, Guam Code Annotated, Chapters 50 and 51.”

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