

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2012 (SECOND) Regular Session

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Bill No. 542-31 (OR)

Introduced by:

T. R Muna Barnes

AN ACT TO AMEND §12015.5, CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE WATER AND SEWER SYSTEM DEVELOPMENT CHARGE.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Section 12015.5 of Title 12 GCA is hereby amended to read:

(a) The Guam Waterworks Authority (“GWA”) shall establish and implement, subject to the prior approval of the Commission in subsection (b), a water and sewer system development charge (SDC) schedule, which charges shall be assessed on each user who is for the first time connecting property into the Guam water and/or wastewater system, or to each developer/builder if the density of development on existing connection is increased. The SDC shall in no event apply to a user or developer/builder who is for the first time connecting property into the Guam water or wastewater system for property or projects designated as affordable

1 homes. For the purposes of this Section, such users whose
2 total household income does not exceed up to one hundred
3 fifty percent (150%) of the median income for Guam as
4 annually published for Guam by the United States
5 Department of Housing and Urban Development (HUD)
6 and the United States Department of Agriculture (USDA)
7 and for which property is certified by the Guam Housing
8 and Urban Renewal Authority (GHURA) as meeting the
9 affordable housing eligibility criteria or such
10 developers/builders whose projects are certified by GHURA
11 as meeting the affordable housing eligibility criteria, shall
12 be exempt from payment of the SDC. Such charge schedule
13 shall seek to recover the additional costs associated with
14 constructing, expanding, upgrading and repairing water and
15 wastewater facilities for such new users and development,
16 and shall take into account existing infrastructure on the
17 property, present and future user demands, requirements for
18 water and/or sewer services, and installation of
19 infrastructure to be done by the user or developer/builder.

20 (b) Pursuant to its authority, the Commission shall immediately
21 begin proceedings to promptly establish and approve the
22 water and sewer system development charge schedule for
23 GWA. The Commission has the authority to adopt and
24 approve a charge schedule for GWA which complies with
25 Subsection (a) of this Section, including, a schedule which
26 shall be known as the Amortized System Development
27 Charge (ASDC) for ~~low or moderate income~~ residents who

1 are constructing or purchasing a single family dwelling
2 intended for their personal residence and/or for immediate
3 family members ~~and who meet the criteria for low or~~
4 ~~moderate income as defined by the Guam Housing~~
5 ~~Corporation.~~ Such charge shall be assessed at an initial
6 amount of 20% of the total ASDC ~~One Thousand Dollars~~
7 ~~(\$1,000.00)~~ and the remainder of the charge shall be
8 amortized over a period not to exceed fifteen (15) years, in
9 which the charge plus interest is added to the monthly GWA
10 billing for the dwelling at a rate in which the total annually
11 assessed charge shall not exceed the initial charge, and
12 provided, that nothing herein shall limit the Commission's
13 authority and jurisdiction to establish and approve General
14 Lifeline Rates for GWA which may apply to the water and
15 sewer development charge schedule. The charge schedule
16 shall be applied to users and developers/builders by GWA
17 upon its adoption and approval by the Commission, and no
18 charges shall be assessed prior to adoption and approval by
19 the Commission.

20 (1)ASDC Applicability. The ASDC shall not apply to
21 any commercial development the construction of
22 multiple residential units.

23 (2)ASDC Not Transferable. Should a home owner
24 paying an ASDC decide to sell or transfer the
25 property, on which the ASDC applies, to a person
26 who is not an immediate family member or who
27 qualifies for the ASDC under this Chapter, then full

1 payment of any balances owed for the ASDC shall be
2 paid in full prior to registration of the sale and
3 transfer of the property at the Department of Land
4 Management and prior to the transfer of the original
5 owner's water/wastewater account to the new owner
6 and/or occupant of the residence.

7 (c) Notwithstanding any other provision of law, all revenues
8 generated by the water and sewer system development
9 charge schedule will be deposited into the Island Water and
10 Sewer Infrastructure Development Fund. Such funds shall
11 be administered by GWA. However, GWA shall file
12 annually for Commission review and approval a full
13 accounting of the receipts and expenditures into and from
14 the Fund with appropriate details of the sources and
15 expenditures into and from the Fund.

16 (d) The Island Water and Sewer Infrastructure Development
17 Fund shall only be expended for costs associated with the
18 construction, expansion, upgrade, and repair of water and/or
19 wastewater facilities for users who are for the first time
20 connecting property into the Guam's water or wastewater
21 system or for developers/builders if the density of
22 development on existing connection is increased.

23 (e) Fees due under the water and sewer development charge
24 schedule adopted by the Commission shall be paid to GWA
25 prior to the issuance of a building construction permit.
26 Subsequent to the adoption and approval of the charge
27 schedule by the Commission, no building construction

1 permit shall be issued without a certificate issued by GWA
2 that all fees due under the charge schedule have been paid,
3 except that the Commission shall develop and adopt a
4 schedule for GWA customers qualified for the ASDC that
5 shall allow for the building construction permit to be issued
6 subsequent to payment of the initial charge.

7 (f) Any person may contest any proposed assessment for the
8 water and sewer development charge schedule made or
9 determined by GWA by filing with GWA a written protest
10 at any time prior to the issuance of a building construction
11 permit. All protests shall be prepared in the form and
12 contain such information as GWA shall reasonably require,
13 and shall include a summary statement of the grounds upon
14 which the person relies and that person's reasons for
15 disputing the assessment of GWA. GWA shall make a
16 determination with respect to the protest and, if required,
17 make an adjustment to the assessment within thirty (30)
18 days of receipt of such protest. Persons dissatisfied with
19 GWA's determination may file a petition with the
20 Commission to review such determination within thirty (30)
21 days of GWA's determination.

22 (g) Except as provided hereafter, each person who made a
23 voluntary contribution under Section 56119 of Title 5 of the
24 Guam Code Annotated shall be compensated to the extent
25 the amount contributed is greater than the charges that
26 would apply under the charge schedule approved by the
27 Commission. Such persons shall be compensated the

1 difference through an abatement of business privilege taxes
2 equal to the differential. Persons seeking credits under this
3 Subsection shall make an application to GWA within one
4 (1) year of the date of enactment of this Act, and GWA
5 shall determine the amount of any credit within ninety (90)
6 days of its receipt of the application. Persons dissatisfied
7 with GWA's determination may file a petition with the
8 Commission to review such determination. This Subsection
9 shall not apply to persons who previously received credits
10 under Section 56119 of Title 5 of the Guam Code
11 Annotated.

12 (h) Except for voluntary contributions previously made, no
13 further assessments shall be collected or imposed by GWA
14 or the Commission under Section 56119 of Title 5 of the
15 Guam Code Annotated.”

16 **Section 2. Effective Date.** This Act shall take effect upon
17 enactment.