

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2007 (FIRST) Regular Session

Bill No. 62 (EC)

As amended by the author.

Introduced by:

v. c. pangelinan
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Frank F. Blas, Jr.
James V. Espaldon
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AN ACT TO IMPOSE A TEMPORARY MORATORIUM ON THE ISSUANCE, EXTENSION, RENEWAL AND MODIFICATION OF QUALIFYING CERTIFICATES; AND TO ADD A NEW §58148 TO CHAPTER 58, DIVISION 2 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO CREATING A QUALIFYING CERTIFICATE ASSESSMENT WORKGROUP.

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

2 **Section 1. Legislative Findings and Intent.** The Qualifying Certificate
3 Program administered by the Guam Economic Development and Commerce
4 Authority is intended to attract new investment and to create new industries in
5 Guam through the granting of certain tax rebates and tax abatements. A

1 Qualifying Certificate allows tax abatements for up to ten (10) years for real
2 property tax and an abatement of up to twenty (20) years for gross receipts tax as
3 set forth in Chapter 58 of Title 12, Guam Code Annotated.

4 The Qualifying Certificate Program was not originally intended to re-issue
5 Certificates to existing, mature, and established recipients, thereby permitting a
6 recipient to claim exemptions twice or more. This practice has become the rule
7 rather than the exception. Therefore, the process of and criteria for granting
8 Qualifying Certificates must be re-evaluated to restore the initial purpose of
9 bestowing economic incentives to new investors.

10 Therefore, *I Liheslaturan Guåhan* imposes a temporary moratorium that
11 suspends the issuance of new Qualifying Certificates and prohibits both the
12 modification of and the granting of extensions to existing Qualifying Certificates.
13 This enactment creates a Qualifying Certificate Assessment Workgroup to evaluate
14 the effectiveness of the Qualifying Certificate Program and to submit
15 recommendations.

16 **Section 2. Temporary Moratorium on Issuance of New and Extension**
17 **of Expiring Qualifying Certificates.** (a) There *shall* hereby be a temporary
18 moratorium placed on the issuance of new Qualifying Certificates and to the
19 extension, renewal, and modification of current Qualifying Certificates pursuant to
20 Title 12 GCA, Chapter 58. Until further action by *I Liheslatura*, the Guam
21 Economic Development and Commerce Authority *shall* not issue new Qualifying
22 Certificates and *shall* not extend, renew or modify existing Qualifying Certificates.

23 (b) This moratorium *shall* not apply to captive insurance companies writing
24 risk outside of Guam *or* risk in which coverage is currently not available on Guam.

25 **Section 3.** A new §58148 is hereby *added* to Chapter 58, Division 2 of Title
26 12 Guam Code Annotated to read as follows:

27 **“§58148. (a) Establishment of the Qualifying Certificate Assessment**

1 **Workgroup.** There is hereby established a Qualifying Certificate Assessment
2 Workgroup which *shall* conduct a cost and benefit analysis regarding the
3 effectiveness of Qualifying Certificates previously issued in the Territory and *shall*
4 formulate a permanent plan for the future of the Qualifying Certificate program.
5 The Workgroup *shall* issue, *no later than* six (6) months from its initial meeting, a
6 written report to the Speaker of *I Liheslaturan Guåhan* and *I Maga'lahaen Guåhan*
7 which *shall* include, but *not* be limited to:

8 (1) Analysis of the criteria used to grant Qualifying Certificates and
9 the effectiveness of the program as currently administered by the
10 Guam Economic Development and Commerce Authority;

11 (2) Quantification of revenues from tax rebates and tax abatements
12 that are deferred *or* lost by the government because of abatements and
13 rebates;

14 (3) Quantification of the economic benefits derived by the granting
15 of Qualifying Certificates;

16 (4) Historical analysis of extending expiring Qualifying
17 Certificates;

18 (5) Breakdown on beneficiaries engaged in different industry
19 activities availing themselves of Qualifying Certificates;

20 (6) Strategies to increase investment other than the Qualifying
21 Certificate program;

22 (7) A plan to restructure the Qualifying Certificate program that
23 encourages investment, considers greater benefits for the public, and
24 reviews the tax abatement and tax rebate periods;

25 (8) Effectiveness of the monitoring and compliance system
26 currently in place and recommendations for change;

27 (9) Recommendations in draft bill form for consideration by *I*

1 *Liheslatura* to amend or repeal the existing statutes, laws and
2 regulations governing the Qualifying Certificate Program.

3 The Workgroup may invite government, private sector, community entities
4 and individuals to testify, submit reports, and provide information that may assist
5 the Workgroup. The Workgroup is authorized to create sub-committees as needed.

6 **(b) Composition of the Qualifying Certificate Assessment Workgroup.**

7 The Workgroup *shall* be composed of seven (7) members as follows:

8 (1) The Speaker of *I Liheslaturan Guåhan* or his designee;

9 (2) The Administrator of the Guam Economic Development and
10 Commerce Authority;

11 (3) The Director of the Department of Revenue and Taxation *or* his
12 designee;

13 (4) The Director of the Department of Administration *or* his
14 designee;

15 (5) The Attorney General of Guam *or* his designee;

16 (6) A representative from the private business community who
17 possesses a degree in economics, finance *or* a business related field
18 appointed by *I Maga'lahi*; and

19 (7) A representative from the Guam Small Business Development
20 Center appointed by *I Maga'lahi*.

21 The Chairperson of the Workgroup *shall* be the Administrator of the Guam
22 Economic Development and Commerce Authority. The Vice Chairperson *shall* be
23 elected by the Workgroup at its first meeting. All Workgroup meetings *shall* be
24 subject to the Open Government Law. *If I Maga'lahi* fails to appoint members as
25 specified above within thirty (30) days of enactment hereof, the Speaker of *I*
26 *Liheslatura shall* make the appointment.

27 **(c) Term and Vacancy of Qualifying Certificate Assessment**

1 **Workgroup.** The Workgroup *shall* be formed and meet no later than forty-five
2 (45) days after the enactment hereof. The members of the Workgroup *shall* serve
3 for the duration of its existence. A vacancy shall be filled in the same manner as
4 the pertinent original appointment. Workgroup members *shall* serve without
5 compensation. The Workgroup *shall* be terminated upon submission of its report
6 to the Speaker of *I Liheslaturan Guåhan* and *I Maga'lahaen Guåhan* or one
7 hundred eighty (180) days after its first meeting, *if* the first meeting is held within
8 forty-five (45) days after enactment hereof, otherwise the Workgroup *shall*
9 terminate two hundred fifty (250) days after enactment.

10 **(d) Support Services.** All government of Guam agencies and officers *shall*
11 assist the Workgroup in the performance of its duties and provide the Workgroup
12 with appropriate studies, data and other information as it requests.”

13 **Section 4. Effective Date.** Section 2 of this Act *shall* become effective
14 immediately and *shall* remain in effect until *I Liheslatura* either enacts the
15 Workgroup’s recommendations *or* lifts the moratorium.