



**MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN**  
TWENTY-NINTH GUAM LEGISLATURE  
155 Hessler Place, Hagåtña, Guam 96910

FILE COPY

December 31, 2008

The Honorable Felix P. Camacho  
*I Maga'lahaen Guåhan*  
*Ufisinan I Maga'lahi*  
*Hagåtña, Guam 96910*



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 31(ÉC), 253(EC), 256(EC), 370(LS), 371(LS), 379(EC), 390(LS), 394(LS), & 403(LS); and Substitute Bill Nos. 225(LS), 248(LS), 305(EC), 314(EC), 368(LS), 389(LS) & 397(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on December 30, 2008.

Sincerely,

TINA ROSE MUNA BARNES  
Senator and Secretary of the Legislature

Enclosures (16)

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I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN  
2008 (SECOND) Regular Session

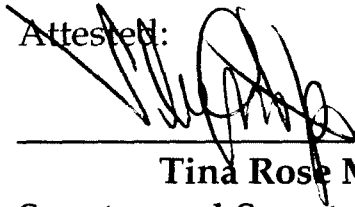
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 397 (EC), "AN ACT TO ADD A NEW §14241 TO ARTICLE 2 OF CHAPTER 14, TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING EMERGENCY FINANCING OPTIONS FOR THE GUAM WATERWORKS AUTHORITY IN ORDER TO PROVIDE FOR EFFICIENT AND ORDERLY OPERATIONS AND TO PROMOTE GROWTH ON GUAM FOR THE BETTERMENT OF ALL ITS RESIDENTS,"** was on the 30<sup>th</sup> day of December, 2008, duly and regularly passed.



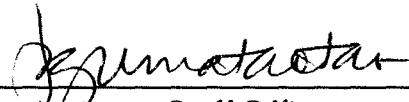
Judith T. Won Pat, Ed. D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Senator and Secretary of the Legislature

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This Act was received by *I Maga'lahaen Guåhan* this 31 day of Dec, 2008, at 3:10 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

***I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN***  
**2008 (SECOND) Regular Session**

**Bill No. 397 (EC)**

As substituted by the Committee on  
Finance, Taxation, Commerce and  
Economic Development.

Introduced by:

James V. Espaldon  
Frank F. Blas, Jr.  
Edward J.B. Calvo  
B. J.F. Cruz  
Mark Forbes  
Judith P. Guthertz, DPA  
Frank T. Ishizaki  
J. A. Lujan  
Tina Rose Muña Barnes  
A. B. Palacios, Sr.  
v. c. pangelinan  
R. J. Respicio  
Dr. David L.G. Shimizu  
Ray Tenorio  
J. T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW §14241 TO ARTICLE 2 OF  
CHAPTER 14, TITLE 12 OF THE GUAM CODE  
ANNOTATED, RELATIVE TO AUTHORIZING EMERGENCY  
FINANCING OPTIONS FOR THE GUAM WATERWORKS  
AUTHORITY IN ORDER TO PROVIDE FOR EFFICIENT  
AND ORDERLY OPERATIONS AND TO PROMOTE  
GROWTH ON GUAM FOR THE BETTERMENT OF ALL ITS  
RESIDENTS.**

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

2 **Section 1. Legislative Intent.** *I Liheslaturan Guåhan* finds that the Guam

1 Waterworks Authority recently imposed a temporary moratorium on sewer  
2 connections in Central Guam in order to prevent sewage overflows that pose a  
3 threat to human health, and to ensure compliance with the Clean Water Act.  
4 However, that moratorium has had an understandable, albeit adverse impact on the  
5 course of economic development on Guam by either delaying *or* scrapping  
6 construction projects which has in turn caused either a temporary *or* permanent  
7 loss of revenue for the government of Guam through increased taxes on those  
8 activities and the resultant economic use and the loss of income from those seeking  
9 to develop their properties.

10 *I Liheslaturan Guåhan* further finds that given the Guam Waterworks  
11 Authority has neither the time nor the luxury of procuring construction *or*  
12 financing a fix to the moratorium in the traditional methods provided for under  
13 Guam law, in light of the problems in the world credit markets and since the Guam  
14 Economic Development Authority has recently learned from GWA's bond  
15 underwriters that it would be unlikely to issue bonds in the near future thereby  
16 making the declaration of an emergency inevitable in order to *not* impede  
17 economic growth which is so important to the long-term well being of Guam's  
18 citizens.

19 *I Liheslaturan Guåhan* further declares that the aforementioned moratorium  
20 and similar capacity-related problems, which may arise from time-to-time, are an  
21 emergency and as such, does hereby authorize the Guam Waterworks Authority to  
22 enter into financing and construction contracts, subject to regulatory oversight  
23 from the Guam Economic Development Authority and the Guam Public Utilities  
24 Commission.

25 **Section 2.** A new §14241 is hereby *added* to Chapter 14, Title 12 of the  
26 Guam Code Annotated, to read as follows:

27 **“§14241. Approval of Financing and Construction Options to**

1 **Alleviate Emergency Conditions in the Guam Waterworks Authority's**  
2 **Water and Wastewater System.** (a) Notwithstanding any other provision  
3 of law, in order to eliminate the emergency that currently exists relative to  
4 the current Guam Waterworks Authority's moratorium on sewer connections  
5 in Central Guam, the Guam Waterworks Authority is hereby authorized to  
6 enter into long-term and short-term financing agreements, credit facilities  
7 and other construction and procurement models which are necessary to  
8 rapidly alleviate the moratorium in order to promote economic growth on  
9 Guam for the betterment of all, provided, however, that said financing *shall*  
10 be issued subject to the terms and conditions of GWA's 2005 Series Bond  
11 Indenture and any other supplemental indenture issued by the Authority  
12 under Public Law 28-71.

13 (b) Financing agreements, credit facilities and procurement  
14 methods can include, but are *not* limited to, the following:

- 15 (1) qualified public activity bonds;
- 16 (2) certificates of participation;
- 17 (3) design-build-finance agreements;
- 18 (4) build-operate-transfer agreements;
- 19 (5) build-lease agreements;
- 20 (6) lease-to-own agreements; and
- 21 (7) any other credit facility *or* financing agreement approved  
22 by the Consolidated Commission on Utilities.

23 (c) All contracts for financing and construction entered into under  
24 this Section *shall* be subject to the approval of the Guam Public Utilities  
25 Commission under the Contract Review Protocol.

26 (d) All financing entered into under this Section *shall* be subject to  
27 the approval of the Guam Economic Development Authority (GEDA) and

1 all fees due to GEDA under existing statutes to GEDA *shall* apply.  
2 However, all other provisions of §50103(k) of Title 12, Guam Code  
3 Annotated, *shall not* apply.

4 (e) Prior to issuing any financing under this provision, the Guam  
5 Waterworks Authority *shall* obtain a legal opinion from a licensed Bond  
6 Counsel designated by the Authority who possesses a national reputation for  
7 expertise in matters relating to governmental obligations, the interest on  
8 which is excluded from gross income for federal income tax purposes under  
9 Section 103 of the United States' Internal Revenue Code.

10 (f) In view of the urgency for the procurement in order to lift the  
11 moratorium in Central Guam and only for the project as defined herein, the  
12 requirements of Chapter 5, Title 5, Guam Code Annotated, are hereby  
13 waived and the Guam Waterworks Authority is hereby authorized to utilize  
14 such method of source selection as it deems necessary, subject to the  
15 approval of the Guam Public Utilities Commission under the Contract  
16 Review Protocol and with all financing to be approved by the Guam  
17 Economic Development Authority. However, the following minimum  
18 limitations apply to the procurement for this project:

19 (1) A competitive selection request *shall* be published in a  
20 newspaper published on Guam for on at least two (2)  
21 occasions at least thirty (30) days prior to the date set to  
22 select the best bid/proposal to GWA based on the lowest  
23 overall life cycle costs and financing; and

24 (2) GWA *shall not* use *sole* source as a method of selecting  
25 the successful bidder/proposer.

26 (g) The moratorium project is defined to mean:

1           (1) Upgrades to the *Mamajanao* Sewage Pump Station  
2 (SPS): This will include an extension of the force main down the hill  
3 to a new terminating manhole and will control the flows from the  
4 pumping station.

5           (2) Route 16 Pump Station Operational Measures: Increase  
6 risk management measures at the Route 16 sewage pump station and  
7 eliminate the flow split to the south.

8           (3) Route 4 Wastewater Piping: Pipe the flow from the New  
9 *Chaot* SPS directly to the Agana WWTP.

10          (4) Tamuning Pump Station: Build a new sewage pump  
11 station in Tamuning that will collect all of the flow from Marine  
12 Corps Drive and pump it directly to the Agana WWTP.

13          (5) Agana Main Pump Station: Upgrade the Agana Main  
14 SPS and provide a fat, oil, grease and grit removal system at Agana  
15 WWTP to enhance overall operability.

16          (6) Other works associated with the above scope as proposed  
17 *or* identified during the bidding process.”