

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

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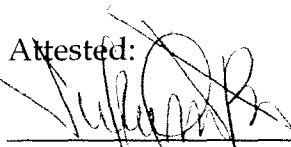
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 179-30 (COR), "AN ACT TO ADD A NEW §1514 TO ARTICLE 5 OF CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO OBTAINING A LIMITED OBLIGATION LOAN TO ACQUIRE, CONSTRUCT AND EQUIP AN EDUCATIONAL CULTURAL FACILITY", was on the 13th day of August, 2010, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 13 day of Aug, 2010, at 5:30 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÁHAN
2009 (FIRST) Regular Session

Bill No. 179-30 (COR)

As substituted by the Committee on Economic Development,
Health & Human Services, and Judiciary; further substituted
by the Committee on Rules; and amended on the Floor.

Introduced by:

B. J.F. Cruz
R. J. Respicio
T. R. Muña Barnes
F. F. Blas, Jr.
Judith P. Guthertz, DPA
Telo Taitague
T. C. Ada
V. Anthony Ada
F. B. Aguon, Jr.
E. J.B. Calvo
J. V. Espaldon
Adolpho B. Palacios, Sr.
v. c. pangelinan
Ray Tenorio
Judith T. Won Pat, Ed.D.

**AN ACT TO *ADD* A NEW §1514 TO ARTICLE 5 OF
CHAPTER 1 OF TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO OBTAINING A LIMITED OBLIGATION
LOAN TO ACQUIRE, CONSTRUCT AND EQUIP AN
EDUCATIONAL CULTURAL FACILITY.**

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

2 **Section 1.** A new §1514 is hereby *added* to Article 5 of Chapter 1 of Title
3 5, Guam Code Annotated, to read as follows:

1 **“§1514. Authorization to Borrow For the Purpose of**
2 **Acquiring, Constructing and Equipping an Educational Cultural**
3 **Facility.**

4 (a) Authorization to Borrow. *I Maga’lahen Guåhan* is authorized
5 to borrow on behalf of the government of Guam, including by the issuance
6 of limited obligation notes or debt, as provided in this Section, in an
7 aggregate principal amount *not to exceed* Twenty-five Million Dollars
8 (\$25,000,000) for the purpose of paying for:

9 (1) the costs of the acquisition, construction and equipping of
10 an educational facility that reflects a sense of Guam and the
11 *Chamorro* culture and will be the permanent home for the
12 preservation and continuance of the Chamorro people; provides for
13 the display of artifacts and historical documents; stimulates
14 community involvement; fosters research and conveys the results of
15 research to the public primarily through the medium of public
16 exhibits, demonstrations, lectures, public programs and publications
17 using the theme: *I Hinanao-ta*, the journey of the *Chamorro* people;

18 (2) the preservation and restoration of the *Plaza de España*
19 and other structures within the Plaza as important field facilities in the
20 continuing cultural education of Guam’s school children, residents,
21 and visitors; and

22 (3) funding necessary reserves and paying expenses incurred
23 in connection with the issuance of such debt *not* already included in
24 an existing appropriation for, or the regular budget of any government
25 agency or instrumentality or public corporation providing any service
26 in connection with the issuance of such debt; provided, however, that
27 such debt may *not* be issued in an amount that would cause a violation

1 of the debt limitation provisions of 48 USC 1423a (§11 of the Organic
2 Act of Guam).

3 (b) Terms and Conditions Determined by Certificate. The terms
4 and conditions of the debt *shall* be as determined by *I Maga'lahen Guåhan*
5 by the execution of a certificate authorizing the issuance of the debt upon or
6 prior to the issuance of the debt; provided, however, that such terms and
7 conditions *shall* be consistent with this Section, and that the debt *shall*
8 mature *not later than* the date thirty (30) years after its date of issuance and
9 *shall* bear interest at such rates and be sold for such price or prices as *shall*
10 result in a yield to the holders of the debt *not* exceeding five percent (5%)
11 per annum.

12 (c) Valid and Binding. The debt authorized by this Section *shall*
13 constitute the valid and binding limited obligation of the government of
14 Guam payable from and secured by a pledge of the revenues derived from
15 the Tourist Attraction Fund. The government of Guam pledges revenues
16 described in Subsection (d) of this Section for the punctual payment of both
17 principal of and interest on the debt and covenants that there *shall* be
18 collected annually in the same manner and at the same time as government
19 revenue for other purposes is collected, such sum as is required to pay the
20 principal of and interest on the debt. There are hereby appropriated from the
21 Tourist Attraction Fund such sums as may be necessary in each year to equal
22 the amount of money necessary to pay the principal and interest on such
23 debt. All officers charged by law with any duty in the collection of the
24 revenues of the government from which debt service on the debt will be
25 payable *shall* do every lawful thing necessary to collect such sum. The
26 validity of any such debt *shall not* be affected by the validity or regularity of
27 any proceedings for the expenditure of the proceeds of the debt.

1 (d) Pledge of Revenues. All or any part of the revenues constituting
2 the Tourist Attraction Fund created by § 30107 of Title 11 GCA, Chapter 30
3 may be pledged to secure the repayment of any debt or debts created under
4 this § 1514 and pay costs incurred in the creation of such debts, subject to
5 any previously created lien on or pledge of such revenues. Any pledge made
6 to secure the debt or debts *shall* be valid and binding from the time the
7 pledge is made. The revenues pledged and thereafter received by the
8 government of Guam or by any trustee, depository or custodian *shall* be
9 deposited in a separate account and *shall* be immediately subject to the lien
10 of such pledge without physical delivery thereof or further act, and the lien
11 of such pledge *shall* be valid and binding against all parties having claims of
12 any kind in tort, contract or otherwise, against the government of Guam,
13 such trustee, depository or custodian, irrespective of whether the parties
14 have notice thereof. The certificate by which such pledge is created need *not*
15 be recorded. All revenues pledged are hereby continuously appropriated for
16 the purpose for which they have been pledged.

17 (e) Waiver of Immunity. Notwithstanding any substantive or
18 procedural provision of Chapter 6 of Title 5, Guam Code Annotated, the
19 government of Guam waives immunity from any suit or action in contract on
20 the debt, but *does not* waive sovereign immunity as to the personal liability
21 of elected officials and employees of the government of Guam.

22 (f) No Personal Liability. *No* employee or elected official of the
23 government of Guam shall be individually or personally liable for the
24 payment of any amounts due on any debt issued under this Section, or for
25 any other liability arising in connection with the debt; provided, however,
26 that nothing in this Section shall relieve any employee or elected official
27 from the performance of any ministerial duty required by law.

1 (g) Form of Debt; Covenants; Appointment of Fiduciaries. The
2 technical form and language of the debt, including provisions for execution,
3 exchange, transfer, registration, paying agency, lost or mutilated debt,
4 negotiability, cancellation and other terms or conditions not inconsistent
5 with this Section *shall* be as specified in the certificate executed by *I*
6 *Maga'lahaen Guåhan* authorizing the issuance of the debt. The certificate
7 *shall* appoint one (1) or more trustees, co-trustees or other fiduciaries
8 authorized to receive and hold in trust the proceeds of the debt and other
9 moneys relating thereto, to protect the rights of holders of the debt and to
10 perform such other duties as may be specified in the certificate. *I*
11 *Maga'lahaen Guåhan* is also authorized to execute, on behalf of the
12 government of Guam, any appropriate agreements, certificates or other
13 instruments relating to the debt and the sale of debt.

14 (h) Use of Proceeds from the Sale of the Debt. The proceeds of the
15 debt *shall* be used and are hereby appropriated to:

16 (1) pay for the costs of the acquisition, construction and
17 equipping of an educational cultural facility;

18 (2) pay for Five Million Dollars (\$5,000,000) towards the
19 costs of the preservation and restoration of the *Plaza de España*, and
20 other structures within the *Plaza*;

21 (3) establish necessary reserves;

22 (4) pay expenses relating to the authorization, sale and
23 issuance of the debt, including, without limitation, printing costs,
24 costs of reproducing documents, legal, financial advisory and
25 accounting fees and charges and other costs, charges and fees in
26 connection with the issuance, sale and delivery of the debt; and

1 (5) fund capitalized interest on the debt for a period *not*
2 *exceeding* twenty-four (24) months.

3 The educational cultural facility *shall* include facilities designed to
4 assist in furthering the preservation, education and presentation of Guam's
5 culture, heritage and history.

6 (i) Permitted Investments. The proceeds of the debt and any
7 moneys relating to the payment of such debt, may be invested in, but only in,
8 the types of investments permitted by the certificate pursuant to which such
9 debt is issued.

10 (j) Approval by the Guam Economic Development Authority.
11 §50103(k), Title 12, Guam Code Annotated, provides that agencies and
12 instrumentalities of the government of Guam *shall* issue debt and other
13 obligations *only* by means of and through the agency of the Guam Economic
14 Development Authority (GEDA). *No* debt authorized by this Section shall
15 be sold until the Board of Directors of GEDA has adopted a resolution
16 approving the sale of such issue.

17 (k) Approval of Voters *Not* Required. Notwithstanding §§17311
18 and 17312 of Title 17, Guam Code Annotated, the issuance of the debt
19 authorized by this Section *shall not* be required to be subject to the approval
20 of, or placed before, the voters of Guam.”

21 **Section 2. Approval of Debt.** *I Liheslaturan Guåhan*, pursuant to
22 §50103(k), Title 12, Guam Code Annotated, hereby approves the issuance and sale
23 by the government of Guam of debt in a principal amount *not to exceed* Twenty
24 Five Million Dollars (\$25,000,000) for the purposes set forth in §1514, Title 5,
25 Guam Code Annotated, provided that the conditions to the issuance of such debt
26 *shall* have been met, such debt have a final maturity date *not later than* thirty (30)
27 years after their date of issuance, bear interest at such rate and are sold for such

1 price or prices as *shall* result in a yield to the bondholders *not exceeding* five
2 percent (5%) per annum, and are issued and sold in the manner, for the purposes
3 and subject to the requirements and limitations provided in §1514, Title 5, Guam
4 Code Annotated.

5 **Section 3.** The location of the facility authorized herein *shall* be approved
6 by *I Liheslaturan Guåhan*.