

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

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

This is to certify that Substitute Bill No. 485-30 (COR), "AN ACT TO ADD A NEW §1515 TO TITLE 5, GUAM CODE ANNOTATED; TO AMEND §22955, AND §1514(b) OF TITLE 5, GUAM CODE ANNOTATED; AND TO AMEND SECTION 2 OF PUBLIC LAW 30-179; RELATIVE TO AUTHORIZING THE ISSUANCE OF GOVERNMENT OF GUAM LIMITED OBLIGATION BONDS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING AN EDUCATIONAL CULTURAL FACILITY AND CERTAIN OTHER PROJECTS THAT BENEFIT GUAM'S TOURISM INDUSTRY AND FOR THE PURPOSE OF REFUNDING GOVERNMENT OF GUAM LIMITED OBLIGATION INFRASTRUCTURE IMPROVEMENT BONDS, 1997 SERIES A, TO APPROVE THE TERMS AND CONDITIONS OF SUCH BOND ISSUE; AND TO CHANGING THE TERMS FOR THE ISSUANCE OF DEBT AUTHORIZED UNDER PUBLIC LAW 30-179," was on the 22<sup>nd</sup> day of December, 2010, duly and regularly passed.



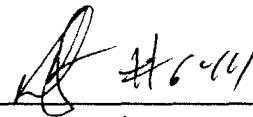
Judith T. Won Pat, Ed. D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 22 day of DEC, 2010, at 8:02 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***  
**2010 (SECOND) Regular Session**

**Bill No. 485-30 (COR)**

As substituted by the Committee on Tourism,  
Cultural Affairs, Youth and Public Broadcasting,  
and amended on the Floor.

Introduced by:

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

**AN ACT TO *ADD* A NEW §1515 AND AMEND §1514(b) OF ARTICLE 5 OF CHAPTER 1, AND TO *AMEND* §22952 OF ARTICLE 10 OF CHAPTER 22, ALL OF TITLE 5, GUAM CODE ANNOTATED; AND TO *AMEND* SECTION 2 OF PUBLIC LAW 30-179, RELATIVE TO AUTHORIZING THE ISSUANCE OF GOVERNMENT OF GUAM LIMITED OBLIGATION BONDS FOR THE PURPOSE OF ACQUIRING, CONSTRUCTING AND EQUIPPING AN EDUCATIONAL CULTURAL FACILITY AND CERTAIN OTHER PROJECTS THAT BENEFIT GUAM'S TOURISM INDUSTRY, AND FOR THE PURPOSE OF REFUNDING GOVERNMENT OF GUAM LIMITED OBLIGATION INFRASTRUCTURE**

**IMPROVEMENT BONDS, 1997 SERIES A, TO APPROVE THE TERMS AND CONDITIONS OF SUCH BOND ISSUE; AND TO CHANGING THE TERMS FOR THE ISSUANCE OF DEBT AUTHORIZED UNDER PUBLIC LAW 30-179.**

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

**Section 1.** A new §1515 is hereby *added* to Article 5 of Chapter 1 of Title 5, Guam Code Annotated, to read as follows:      “§ 1515.   **Authorization to Borrow For the Purpose of Acquiring, Constructing and Equipping an Educational Cultural Facility, a Community Cultural Center and Certain Other Projects That Benefit Guam's Tourism Industry and For the Purpose of Refunding the Outstanding Government of Guam Limited Obligation Infrastructure Improvement Bonds**

(a) Definitions. The following terms *shall* have the following meanings when used in this Section:

(1) *Debt service* means the scheduled principal of and interest on bonds plus fees, if any, to be paid for credit enhancement of such bonds.

(2) *Debt service savings* means the amount by which the present value of debt service on refunding bonds is less than the present value of the remaining debt service on the prior obligations refunded by such refunding bonds. Present value shall be calculated for this purpose using the yield on the bond issue as the discount rate.

(3) *Hotel tax revenues* means all revenues derived from taxes of the type now imposed by § 30101 of Chapter 30 of Title 11 of the Guam Code Annotated.

1           (4) *New money bond* means a bond issued pursuant to this  
2 Article as part of the same issue as the refunding bonds, but for the  
3 purpose of providing moneys for the projects authorized by Subsection  
4 (i) of this Section, funding a debt service reserve fund, or paying  
5 expenses incurred in connection with the issuance of such new money  
6 bonds not already included in an existing appropriation for, or the  
7 regular budget of any government agency or instrumentality or public  
8 corporation providing any service in connection with the issuance of  
9 such debt.

10           (5) *Prior obligations* means the outstanding Government of  
11 Guam Limited Obligation Infrastructure Improvement Bonds, 1997  
12 Series A, being refunded in connection with the issuance of bonds  
13 pursuant to this Section.

14           (6) *Refunding bond* means a bond issued pursuant to this  
15 Section for the purpose of providing moneys to redeem or otherwise  
16 retire prior obligations, funding any appropriate reserves allocable to  
17 the refunding bonds, or paying expenses incurred in connection with  
18 the issuance of such refunding bonds not already included in an  
19 existing appropriation for, or the regular budget of any government  
20 agency or instrumentality or public corporation providing any service  
21 in connection with the issuance of such debt.

22           (7) *Yield* means the annual discount rate which, when used to  
23 discount all payments of net debt service on a bond issue to the date of  
24 issuance of the bonds, using a semiannual compounding interval,  
25 results in the aggregate present value of such payments being equal to  
26 the re-offering price to the public of the bonds. For this purpose, “net  
27 debt service” means debt service minus the amount of any direct

1           subsidy payment to be received from the United States in connection  
2           with debt service.

3           (b)     Authorization of Issuance of Limited Obligation Infrastructure  
4     Improvement Bonds. *I Maga'lahen Guåhan* is authorized to issue on behalf  
5     of the Government an issue of bonds of the Government consisting of  
6     refunding bonds and new money bonds, subject to the following requirements  
7     and limitations:

8                   (1)    The issuance of the bonds *shall not* cause a violation of  
9                   the debt limitation provisions of Title 48 USC § 1423a (§ 11 of the  
10                   Organic Act of Guam).

11                   (2)    All obligation of the Government to pay debt service on  
12                   the prior obligations *shall* be discharged concurrently with the  
13                   issuance of the refunding bonds. Thereafter, any remaining debt  
14                   service on the prior obligations *shall* be payable solely from and  
15                   secured solely by a refunding escrow established for such purpose.

16                   (3)    The present value of debt service on the refunding bonds  
17                   *shall* be at least two percent (2.0%) less than the present value of debt  
18                   service on the refunded bonds, using the yield on the refunding bonds  
19                   as the discount rate.

20                   (4)    The aggregate principal amount of refunding bonds  
21                   issued *shall not* exceed the amount necessary to redeem or otherwise  
22                   retire the prior obligations, fund any appropriate reserves allocable to  
23                   the refunding bonds, and pay expenses incurred in connection with the  
24                   issuance of the refunding bonds not already included in an existing  
25                   appropriation for, or the regular budget of any government agency or  
26                   instrumentality or public corporation providing any service in  
27                   connection with the issuance of such debt.

1           (5) The aggregate principal amount of new money bonds  
2 issued *shall not* exceed the amount necessary to fund the sum of the  
3 amounts appropriated for the projects listed in Subsection (i) of this  
4 Section, establish a debt service reserve fund allocable to the new  
5 money bonds, pay capitalized interest on the bonds and pay expenses  
6 incurred in connection with the issuance of the new money bonds not  
7 already included in an existing appropriation for, or the regular budget  
8 of any government agency or instrumentality or public corporation  
9 providing any service in connection with the issuance of such debt.

10           (6) Aggregate net debt service in each fiscal year on the  
11 bonds issued pursuant to this Section and any Government of Guam  
12 Infrastructure Improvement Bonds, 1997 Series A, remaining  
13 outstanding after the issuance of such bonds *shall not* exceed Seven  
14 Million Dollars (\$7,000,000) per fiscal year.

15           (c) Source of Payment and Security for the Bonds. The bonds  
16 issued pursuant to this Section *shall* be limited obligations of the  
17 Government payable from and secured by a pledge of all or any part of the  
18 hotel tax revenues. Any pledge made to secure the bonds *shall* be valid and  
19 binding from the time the pledge is made. The hotel tax revenues received  
20 by the Government or any trustee, depository and custodian *shall* be  
21 deposited in a separate account and *shall* be immediately subject to the lien  
22 of such pledge without physical delivery thereof or further act, and the lien  
23 of such pledge *shall* be valid and binding against all parties having claims of  
24 any kind in tort, contract or otherwise, against the Government of such  
25 trustee, depository or custodian, irrespective of whether the parties have  
26 notice thereof. The indenture by which such pledge is created need *not* be  
27 recorded. Hotel tax revenues pledged for the purpose of paying the bonds

1 are hereby continuously appropriated for such purpose and for the purposes  
2 of paying the charges of any trustee, custodian, depository, auditor or credit  
3 enhancement provider for the bonds and any other necessary bond expenses  
4 under the indenture. All such revenues not needed for such purpose or for  
5 the purposes of paying any Government of Guam Limited Obligation  
6 Infrastructure Improvement Bonds, 1997 Series A, remaining outstanding  
7 and any expenses related thereto *shall* be transferred periodically by any  
8 trustee or other fiduciary under the indenture as follows:

9 (1) first, to the fund or account designated by the Guam Visitors  
10 Bureau (GVB), such amount as is specified by the budget enacted by *I*  
11 *Liheslaturan Guåhan* (the Guam Legislature) for the GVB, and

12 (2) second, the balance of such revenues to the Tourist Attraction  
13 Fund.

14 The obligation to make these transfers to the GVB and the Tourist  
15 Attraction Fund *shall not* be a part of the contract with the bondholders, and  
16 *shall* be subject to the modification by amendment of this Subsection (c) of  
17 this Section.

18 The Director of Administration *shall* provide to *I Liheslaturan*  
19 *Guåhan* (the Guam Legislature) a copy of each monthly trustee's or other  
20 fiduciary's report on collections and disbursements of hotel tax revenues  
21 within five (5) working days of the Director's receipt of such report.

22 (d) Terms and Conditions Determined by Indenture; Form of  
23 Bonds; Covenants; Appointment of Fiduciaries; Other Related Agreements.  
24 The terms and conditions of the new issue *shall* be as determined by *I*  
25 *Maga'lahren Guåhan* by the execution of an indenture authorizing the  
26 issuance of the issue. The indenture *shall* contain such terms and conditions  
27 as are consistent with this Section. The technical form and language of the

1 bonds of the new issue, including provisions for execution, exchange,  
2 transfer, registration, paying agency, lost or mutilated bonds, negotiability,  
3 cancellation and other terms, covenants or conditions not inconsistent with  
4 this Section, *shall* be as specified in the indenture executed by *I Maga'lahen*  
5 *Guåhan* authorizing the issuance of the bonds. The indenture may appoint  
6 one (1) or more trustees or other fiduciaries authorized to receive and hold in  
7 trust the proceeds of the bonds and moneys relating thereto, to protect the  
8 rights of bondholders and to perform such other duties as may be specified  
9 in the indenture. The proceeds of the bonds issued pursuant to this Section,  
10 and any revenues relating to such bonds, may be invested in, but only in, the  
11 types of investments permitted by the indenture. *I Maga'lahen Guåhan* is  
12 also authorized to execute, on behalf of the Government, any appropriate  
13 agreements, certificates or other instruments relating to the bonds and the  
14 sale of the bonds.

15 (e) Authorization for Credit Enhancement. *I Maga'lahen Guåhan*  
16 is authorized to enter into such contracts or agreements with such banks,  
17 insurance companies or other financial institutions as he determines are  
18 necessary or desirable to improve the security and marketability of any  
19 bonds authorized by this Section. Such contracts or agreements may contain  
20 an obligation to reimburse, with interest, any such banks, insurance  
21 companies or other financial institutions for advances used to pay principal  
22 of or interest on the issue. Any such reimbursement obligation *shall* be  
23 payable solely from the same sources as debt service on the issue is payable,  
24 and any such advance, if necessary, *shall* be treated as creating a  
25 reimbursement obligation issued to refund the issue.

26 (f) Valid and Binding Obligations, Collection of Revenue. The  
27 bonds of the issue authorized by this Section *shall* constitute the valid and



1 binding limited obligations of the Government. All officers charged by law  
2 with any duty in the collection of any revenues from which debt service on  
3 the issue is payable *shall* do every lawful thing necessary to collect the  
4 money necessary for such purpose. The validity of any such bonds *shall not*  
5 be affected by the validity or regularity of any proceedings for the  
6 implementation of the infrastructure improvement projects funded by either  
7 the prior obligations or the new money bonds.

8 (g) Waiver of Immunity. Notwithstanding any substantive or  
9 procedural provision of the Government Claims Act, Chapter 6 of Title 5 of  
10 the Guam Code Annotated, the Government waives immunity from any suit  
11 or action in contract on the bonds authorized by this Section, but does *not*  
12 waive sovereign immunity as to the personal liability of elected officials and  
13 employees of the Government.

14 (h) No Personal Liability. No employee or elected official of the  
15 Government shall be individually or personally liable for the payment of any  
16 amounts due on any bonds issued under this Section, or for any other  
17 liability arising in connection with the bonds; provided, however, that  
18 nothing in this Section shall relieve any employee or elected official from  
19 the performance of any ministerial duty required by law.

20 (i) Infrastructure Improvement Projects. The proceeds of the new  
21 money bonds issued under this Section are hereby appropriated in amounts  
22 not to exceed the following amounts for the purposes of implementing the  
23 following projects, in the following order of priority:

24 (1) Twenty-Seven Million Dollars (\$27,000,000) for the  
25 acquisition, construction and equipping of an educational facility that  
26 reflects a sense of Guam and the *Chamorro* culture and will be the  
27 permanent home for the preservation and continuance of the

1 Chamorro people; provides for the display of artifacts and historical  
2 documents; stimulates community involvement; fosters research and  
3 conveys the results of research to the public primarily through the  
4 medium of public exhibits, demonstrations, lectures, public programs  
5 and publications using the theme: *I Hinanao-ta*, the journey of the  
6 Chamorro people, provided, however, that the location of such  
7 educational facility shall have been approved by *I Maga'låhen*  
8 *Guåhan* prior to acquisition (if any) or construction thereof;

9 (2) Forty-One Million Five Hundred Thousand Dollars  
10 (\$41,500,000) for the following projects:

11 (A) for resolution of the San Vitores flooding caused  
12 by storm water runoff along San Vitores Road north of the  
13 Fujita Pump Station by collecting and removing storm runoff  
14 via transmission to the Fujita Pump Station to be discharged at  
15 a suitable location;

16 (B) for various projects related to Historic *Hagåtña* to  
17 include the following:

18 (i) for the restoration of the walls of the *Plaza*  
19 *de España*;

20 (ii) for the restoration and rehabilitation of the  
21 *Plaza de España* Azotea;

22 (iii) for the restoration of the *Plaza de España*  
23 Chocolate House; and

24 (iv) for the development of a paver-surface  
25 crosswalk and landings on both sides of Marine Corps  
26 Drive to provide a proper connection between Skinner  
27 Plaza and the Chamorro Village.

1 (C) for reimbursements to the Guam Preservation  
2 Trust interfund payables due to failure to deposit in said Fund  
3 and to transfers out by *I Maga'låhen Guåhan*;

4 (D) for the restoration of the *Inarajan* community  
5 center;

6 (E) for the restoration and rehabilitation of the  
7 *Malesso* Bell Tower, including landscaping and lighting  
8 improvements;

9 (F) for the design and construction of a Guam Farmers  
10 Cooperative Association facility and the relocation of the  
11 *Dededo* Flea Market;

12 (G) for the construction of a historic monument and  
13 plaza to commemorate Ferdinand Magellan's historic visit to  
14 *Umatac* Bay;

15 (H) for the design and construction of village entrance  
16 signs for Guam's nineteen (19) municipalities;

17 (I) for improvements to the Nimitz Beach outdoor  
18 pavilion, public restrooms, lighting, benches and walking paths;

19 (J) for improvements to the public facilities near the  
20 Fish Eye Pier, including public restrooms, washing facilities,  
21 benches, lighting, and picnic areas;

22 (K) for improvements to the stalls, public restrooms,  
23 landscaping and walking paths of the *Mangilao* Public Market;

24 (L) for improvements in *Tumon* Bay, to include  
25 pedestrian corrals and safety railings, and overhead lighting at  
26 the Governor Joseph Flores Memorial Park;

1 (M) for the renovation of streetlights along Pale San  
2 Vitores Road;

3 (N) for the renovation of streetlights in the *Agana* Bay  
4 vicinity;

5 (O) for the restoration and repair of scenic byways,  
6 overlooks, and historic sites, including the *Cetti* Bay and *Sella*  
7 Bay Overlooks; the *Umatac* Bay Overlook; the *Agat* Spanish  
8 Bridge (*Talifak* River); the *Talofof* and *Fadi'an* Point  
9 Overlooks; the Santos Memorial Park ocean views; and the East  
10 *Agana* Bay picnic shelters and ocean views;

11 (P) for the design and construction of a permanent  
12 monument for the late Senator Angel L.G. Santos Park;

13 (Q) for the scenic and informational highway signs;

14 (R) for improvements of the *Hagåtña* Tennis Courts;

15 (S) for improvements of the *Hagåtña* Pool;

16 (T) for deposit into the Community Sports  
17 Recreational Improvement Fund established under Public Law  
18 14-27 for the construction and/or renovation of sports and  
19 community recreational facilities;

20 (U) for primary or supplemental funding for projects  
21 identified under the *Hagåtña* Master Plan; and

22 (V) for acquisition of available real estate and offered  
23 for sale and development of a public park within the area  
24 known as Fairfax and *Gonga* (Gun Beach) in *Tumon*.

25 (j) Approval of Guam Economic Development Authority.  
26 §50103(k) of Title 12, Guam Code Annotated provides that agencies and  
27 instrumentalities of the Government shall issue bonds and other obligations

1 only by means of and through the agency of the Guam Economic  
2 Development Authority (GEDA). No issue of bonds authorized by this  
3 Section shall be sold until the Board of Directors of GEDA has adopted a  
4 resolution approving the sale of such issue.

5 (k) In the event that *I Maga'Lahen* secures a loan under Public Law  
6 30-179, *I Maga'Lahen* is authorized to reprogram bond proceeds intended  
7 for Item (1) of Subsection (i) of this Section for the purpose of  
8 reconstructing and/or renovation of the Old Guam Legislature Building (the  
9 former Guam Congress Building) and other historic facilities in *Hagåtña*.”

10 **Section 2. Approval of Terms and Conditions.** §50103(k) of Title 12,  
11 Guam Code Annotated provides that GEDA *shall not* sell any bond without the  
12 approval of *I Liheslaturan Guåhan* of the terms and conditions of the issuance of  
13 the bonds. *I Liheslaturan Guåhan* hereby approves the issuance, terms and  
14 conditions of the bonds authorized by §1515 of Title 5, Guam Code Annotated, in  
15 an aggregate principal amount *not* to exceed the amount authorized by said §1515,  
16 with a final maturity *not* exceeding thirty (30) years and bearing interest at a yield  
17 of *not* to exceed seven and one-half percent (7.5%) per annum, after subtracting  
18 from bond interest the amount of any direct subsidy payment to be received from  
19 the United States in connection with such bonds.

20 **Section 3. Amendment of Prior Hotel Tax Flow of Funds.** § 22952 of  
21 Article 10 of Chapter 22, Title 5, Guam Code Annotated, is hereby *amended* to  
22 read as follows:

23 “§ 22952. **Source of and Security for Payment of the Bonds.** The  
24 bonds of the new issue *shall* be limited obligations of the Government  
25 payable from and secured by a pledge of all or any part of the hotel tax  
26 revenues. Any pledge made to secure the bonds *shall* be valid and binding  
27 from the time the pledge is made. The hotel tax revenues received by the

1 Government or any trustee, depository and custodian *shall* be deposited in a  
2 separate account and *shall* be immediately subject to the lien of such pledge  
3 without physical delivery thereof or further act, and the lien of such pledge  
4 *shall* be valid and binding against all parties having claims of any kind in  
5 tort, contract or otherwise, against the Government of such trustee,  
6 depository or custodian, irrespective of whether the parties have notice  
7 thereof. The indenture by which such pledge is created need *not* be recorded.  
8 Hotel tax revenues pledged for the purpose of paying the bonds are hereby  
9 continuously appropriated for such purpose and for the purposes of paying  
10 the charges of any trustee, custodian, depository, auditor or credit  
11 enhancement provider for the bonds and any other necessary bond expenses  
12 under the indenture. All such revenues *not* needed for such purpose or for  
13 the purpose of paying any bonds issued pursuant to §1515 of Title 5, Guam  
14 Code Annotated, and any expenses relating thereto shall be transferred  
15 periodically by any trustee or other fiduciary under the indenture as provided  
16 by said §1515. The obligation to make such transfers *shall not* be a part of  
17 the contract with the bondholders, and *shall* be subject to the modification  
18 by amendment of this §22952 by *I Liheslaturan Guåhan* (the Guam  
19 Legislature).”

20 **Section 4.** §1514(b) of Article 5 of Chapter 1, Title 5, Guam Code  
21 Annotated, is hereby *amended* to read:

22 “(b) Terms and Conditions Determined by Certificate. The terms and  
23 conditions of the debt *shall* be determined by *I Maga’ lahen Guåhan* by the  
24 execution of a certificate authorizing the issuance of the debt upon or prior  
25 to the issuance of the debt; provided, however, that such terms and  
26 conditions *shall* be consistent with this Section, and that the debt *shall*  
27 mature *not later than* the date thirty (30) years after its date of issuance and

1        *shall* bear interest at such rates and be sold for such price or prices as *shall*  
2        result in a yield to the holders of the debt *not* exceeding seven and one-half  
3        percent (7½%) per annum.”

4        **Section 5.** Section 2 of Public Law 30-179 is hereby *amended* to read as  
5 follows:

6                    **“Section 2. Approval of Debt.**

7                    *I Liheslaturan Guåhan*, pursuant to §50103(k), Title 12, Guam Code  
8 Annotated, hereby approves the issuance and sale by the government of  
9 Guam of debt in a principal amount not to exceed Twenty Five Million  
10 Dollars (\$25,000,000) for the purposes set forth in §1514, Title 5, Guam  
11 Code Annotated, provided that the conditions to the issuance of such debt  
12 *shall* have been met, such debt have a final maturity date *not later than* thirty  
13 (30) years after their date of issuance, bear interest at such rate and are sold  
14 for such price or prices as *shall* result in a yield to the holders of the debt not  
15 *exceeding* seven and one-half percent (7½%) per annum, and are issued and  
16 sold in the manner, for the purposes and subject to the requirements and  
17 limitations provided in §1514, Title 5, Guam Code Annotated. The issuance  
18 and sale of debt on behalf of the government of Guam authorized by this  
19 Section may be to one (1) or more banks or financial institutions as a loan  
20 guaranteed by the U.S. Department of Agriculture.”