

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

NOV 27 2013

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

32-13-1038
Office of the speaker
Judith T. Won Pat, Ed. D.
Date 11.29.13
Time 9:54 am
Received by: [Signature]

2013 NOV 29 AM 11:13

Dear Madame Speaker:

Transmitted herewith is Bill No. 112-32 (COR) "AN ACT TO AMEND § 12015.5(b), AND TO ADD NEW SUBSECTIONS (i) AND (j) TO § 12015.5 OF CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF AN AFFORDABLE HOUSING SYSTEM DEVELOPMENT CHARGE (AHSDC)" which I signed into law on November 27, 2013 as **Public Law 32-075**.

Senseramente,

EDDIE BAZA CALVO

1038



I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

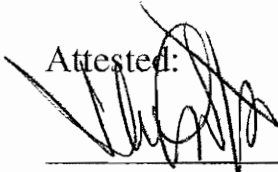
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 112-32 (COR), "AN ACT TO AMEND § 12015.5(b), AND TO ADD NEW SUBSECTIONS (i) AND (j) TO § 12015.5 OF CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF AN AFFORDABLE HOUSING SYSTEM DEVELOPMENT CHARGE (AHSDC)"**, was on the 12th day of November 2013, duly and regularly passed.



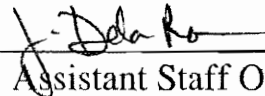
Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 15th day of Nov.,
2013, at 11:28 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:


EDWARD L.B. CALVO
I Maga'lahaen Guåhan

Date: NOV 27 2013

Public Law No. 32-075

I MINA TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 112-32 (COR)

As substituted by the Committee on Public Safety,
Infrastructure and Maritime Transportation;
and amended on the Floor.

Introduced by:

T. C. Ada
T. R. Muña Barnes
R. J. Respicio
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
Vicente (ben) C. Pangelinan
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

**AN ACT TO AMEND § 12015.5(b), AND TO ADD NEW
SUBSECTIONS (i) AND (j) TO § 12015.5 OF CHAPTER
12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE
TO THE CREATION OF AN AFFORDABLE HOUSING
SYSTEM DEVELOPMENT CHARGE (AHSDC).**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that two public laws, P.L. 19-47 and P.L. 26-164, established the public policy for
4 implementing a System Development Charge (SDC) “by which new customers
5 would be responsible for the incremental costs associated with the construction of

1 new water and wastewater facilities to support those customers rather than
2 requiring such costs to be borne generally by the taxpayers of Guam or existing
3 customers.”

4 The SDC is a common tool used by modern water utilities globally to
5 balance the interests of existing ratepayers who have paid for the existing system,
6 while allowing new customers to join the system by making a contribution to
7 expand the system to meet their new demand. Since 2010, when the SDC was first
8 implemented by the Guam Waterworks Authority (GWA) with the approval of the
9 SDC charges by the Public Utilities Commission (PUC), over 1,100 customers
10 have paid the applicable SDC, contributing 3 Million Dollars for system expansion
11 to serve the increased demand on the system their new structures create without
12 burdening existing customers who are *not* causing this growth.

13 *I Liheslatura* finds that affordable housing is needed for Guam and its
14 people. In order to assist future homeowners and developers of affordable housing,
15 *I Liheslatura* has determined that reducing, but *not* completely eliminating, the cost
16 of system development charges required for moderate to low cost affordable
17 housing will assist Guam residents in building new affordable homes without
18 creating an unfair burden on existing ratepayers or reducing the level of service for
19 existing and new customers.

20 *I Liheslatura* further finds it appropriate and beneficial to move the
21 collection of the System Development Charge from the building permit stage to the
22 occupancy permit stage. Such a shift will negate the need for developers to front
23 the cost of the SDC far in advance of the sale of the house, thus lowering the cost
24 of development, while still ensuring that GWA receives the full amount necessary
25 to protect existing ratepayers from the impact of new development. Additionally, *I*
26 *Liheslatura* finds it appropriate to delete the “low or moderate income” language in
27 the section of existing GCA dealing with the Amortized System Development

1 Charge, thus making it clear that the ASDC *shall* be made available for all
2 customers building a single family dwelling, regardless of income.

3 It is for the purpose of balancing the interests of the community to sustain a
4 growing demand for water and wastewater services, while making it easier for low
5 and moderate cost housing to be built, that a graduated SDC, as outlined by this
6 legislation, be implemented.

7 **Section 2.** §12015.5 (b) of Chapter 12, Title 12, Guam Code Annotated, is
8 hereby *amended* to read as follows:

9 “(b) Pursuant to its authority, the Commission *shall* immediately
10 begin proceedings to promptly establish and approve the water and sewer
11 system development charge schedule for GWA. The Commission has the
12 authority to adopt and approve a charge schedule for GWA which complies
13 with Subsection (a) of this Section, including, a schedule which *shall* be
14 known as the Amortized System Development Charge (ASDC) for residents
15 who are constructing or purchasing a single family dwelling intended for
16 their personal residence and/or for immediate family members. Such charge
17 *shall* be assessed at an initial amount of *no less than* ten percent (10%) of the
18 total SDC charge due, and the remainder of the charge *shall* be amortized
19 over a period *not to exceed* fifteen (15) years, in which the charge plus
20 interest, at a rate established by the Guam Public Utilities Commission, is
21 added to the monthly GWA billing for the dwelling at a rate in which the
22 total annually assessed charge *shall not* exceed the initial charge; and
23 provided, that nothing herein shall limit the Commission’s authority and
24 jurisdiction to establish and approve General Lifeline Rates for GWA, which
25 may apply to the water and sewer development charge schedule. The charge
26 schedule *shall* be applied to users and developers by GWA upon its adoption

1 and approval by the Commission, and *no* charges *shall* be assessed prior to
2 adoption and approval by the Commission.

3 (1) ASDC Applicability. The ASDC *shall not* apply to any
4 commercial development involving the construction of multiple
5 residential units.

6 (2) ASDC *Not* Transferable. Should a homeowner paying an
7 ASDC decide to sell or transfer the property, on which the ASDC
8 applies, to a person who is *not* an immediate family member or who
9 qualifies for the ASDC under this Chapter, then full payment of any
10 balances owed for the ASDC *shall* be paid prior to registration of the
11 sale and transfer of the property at the Department of Land
12 Management, and prior to the transfer of the original owner's
13 water/wastewater account to the new owner and/or occupant of the
14 residence.”

15 **Section 3.** New Subsections (i) and (j) to are hereby *added* to §12015.5 of
16 Chapter 12, Title 12, Guam Code Annotated, to read as follows:

17 “(i) Affordable Housing System Development Charge (AHSDC).

18 (1) AHSDC For Persons Who Construct Their Own Primary
19 Residences. Any person who constructs, or causes to construct, a
20 home where said structure will be the primary residence for
21 themselves or an immediate family member as defined by 4 GCA
22 §4108 (2) *shall* be charged 1.01% for water connections and 1.65%
23 for sewer connections of the actual cost to construct the home and
24 purchase the land in the event the actual total cost is Two Hundred
25 Ten Thousand Dollars (\$210,000) or less. GWA *shall* require
26 reasonable proof to be provided showing that the home will in fact be
27 a primary residence. The actual cost of a home includes the purchase

1 price of the land, if any, and all materials, labor, and other amounts
2 necessary for the single-family dwelling that is constructed to fully
3 comply with the Guam Building Code. The AHSDC *shall not* apply to
4 those persons who construct, or cause to be constructed, homes that
5 *do not* meet the requirements of the Guam Building Code, nor shall
6 the charge apply to persons renovating existing structures. GWA *shall*
7 *not* provide water services to any structure that *does not* fully comply
8 with the Guam Building Code.

9 (2) AHSDC For Persons Who Construct Affordable Homes
10 With Intent To Sell. Any person who constructs a home which is to be
11 sold, or is in fact sold, prior to initial occupancy where the home costs
12 Two Hundred Ten Thousand Dollars (\$210,000) or less, *shall* be
13 charged 1.01% for water connections and 1.65% for sewer
14 connections of the value of the sale price of the home. The valuation
15 *shall* include the purchase price for the entire lot where the home is
16 located. The valuation *shall* also include the actual cost of a home,
17 inclusive of all the materials, labor, and other amounts necessary for a
18 building to fully comply with the Guam Building Code. The AHSDC
19 is *not* applicable to those persons or developers who construct, or
20 cause to be constructed, homes that *do not* meet the requirements of
21 the Guam Building Code, or where the total cost, pursuant to
22 Subsection (3) below, of the home and lot exceed \$210,000.

23 (3) Proof of Cost/Valuation. In order to determine the correct
24 value of a home, the Guam Waterworks Authority *shall* have the
25 authority to require reasonable proof of such value of the home, which
26 includes, but is *not* limited to: (A) a schedule of costs signed by an
27 engineer, contractor or architect licensed on Guam; (B) purchase price

1 of the land; and (C) a complete breakdown of all costs involved in the
2 construction of the home to support the valuation claimed, or proof of
3 the purchase price of the home if purchased. An appraisal of the land
4 is *not* required in the event the land was not purchased. GWA may
5 reject any claim not reasonably founded or proven, or for failure to
6 provide any document requested by GWA in support of such claim of
7 valuation.

8 (4) *Reevaluation.* At least once every five years, the Guam
9 Waterworks Authority shall review the Median Household Income for
10 Guam, as published by the HUD Median Income Statistic, and shall
11 then adjust the total cost threshold requirement of the AHSDC, set at
12 \$210,000, accordingly.

13 (j) *Timing of Payments Regarding System Development Charges*
14 *for Single Family Dwellings.*

15 (1) Notwithstanding any other requirement of law, the
16 system development charge for all single family dwellings may be
17 paid at any time prior to initial occupancy.

18 (2) Developers of property who sell single family dwellings
19 are required to notify subsequent purchasers of the need to pay system
20 development charges prior to occupying the home, in the event an
21 occupancy permit has *not* issued or been applied for.

22 (3) GWA shall withhold water and sewer services until the
23 payment of any system development charge is paid in full, aside from
24 those persons who qualify for the Amortized System Development
25 Charge as described in §12015.5 (b).”

26 **Section 4. Severability.** *If any of the provisions of this law or its*
27 *application to any person or circumstance is found to be invalid or contrary to law,*

1 such invalidity *shall not* affect other provisions or applications of this law which
2 can be given effect without the invalid provisions or application, and to this end the
3 provisions of this law are severable.

4 **Section 5. Effective Date.** This Act *shall* become effective six (6) months
5 from the date of enactment.