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Messages and Communications

2 messages

Speaker Won Pat <speaker@judiwonpat.com>

Tue, May 28, 2013 at 8:02 AM

To: Guam Legislature Clerks Office <clerks@guamlegislature.org>

5/24/2013	Guam Preservation Trust	Financial Statement for the month ending April 30, 2013.	32-13-438
5/24/2013	BBMR	Consolidated Revenue/Expenditures Report for the period ending April 30, 2013.	32-13-439

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Ufisinan I Etmás Ge'helo'Gi Liheslaturan Guáhan
Office of Speaker Judith T. Won Pat Ed.D.
Kumiten Idukasion yan Laibirihan Publeko
Committee on Education and Public Libraries & Women's Affairs
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Speaker Won Pat <speaker@judiwonpat.com>

Tue, May 28, 2013 at 1:51 PM

To: Guam Legislature Clerks Office <clerks@guamlegislature.org>

Office of the Attorney
 LEGAL MEMORANDUM
 To: Honorable Dennis
 Rodriguez, Jr.
 Committee on Health &
 Human Services.
 Health Insurance Reform,
 Economic Development
 and Senior Citizens
 I Mina'trentai Dos Nu
 Liheslaturan Gudhqn
 From:
 Re:
 Attorney General of Guam
 Bill No. 20-32 (COR) as
 Substituted by the
 Committee on Health &
 Human
 Services, Health Insurance
 Reform, Economic
 Development, and Senior
 Citizens; 6(The GMHA
 Healthcare Trust and
 Development Act of 2013";
 Ref.: LEG 13-0230General

5/28/2013 5/26/2013

32-13-440

32-13-440
 Office of the Speaker
 Judith T. Won Pat, Ed. D.
 Date: 5/28/13
 Time: 1:53 PM
 Received by: [Signature]

2013 MAY 28 PM 2:00

----- Forwarded message -----

From: **Phil Tydingco** <ptydingco@guamag.org>
Date: Tue, May 28, 2013 at 11:26 AM
Subject: Bill
To: "speaker@judiwonpat.com" <speaker@judiwonpat.com>

Hafa Adai Speaker Won Pat,

Attached is the written response of the Office of the Attorney General to Bill 20-32 as substituted.

Saina Ma'ase,

Si Phil Tydingco

Chief Deputy Attorney General

Uffisinan Hinirat Abugao

Office of the Attorney General

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1115K

Leonardo M. Rapadas
Attorney General



Phillip J. Tydingco
Chief Deputy Attorney General


OFFICE OF THE ATTORNEY GENERAL

May 26, 2013

EMAIL and HAND DELIVER

LEGAL MEMORANDUM

To: Honorable Dennis Rodriguez, Jr.
Committee on Health & Human Services,
Health Insurance Reform, Economic Development
and Senior Citizens
I Mina'trentai Dos Na Liheslaturan Guåhan

From: Attorney General of Guam 

Re: **Bill No. 20-32 (COR) as Substituted by the Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens; "The GMHA Healthcare Trust and Development Act of 2013"; Ref.: LEG 13-0230**

While the Office of the Attorney General was present and testified during the meeting of the committee of the whole on May 24, 2013, because we were not present the previous day of the public hearing on Bill 20-32 (COR) as Substituted by the Committee on Health and Human Services, Health Insurance Reform, Economic Development, and Senior Citizens. we submit this memorandum.¹

Although we support the Bill's intent to identify a funding source to assist Guam's public hospital, there are sections of the Bill that are problematic if the Bill were to become law and therefore we are compelled to submit the following comments to Bill No. 20-32. A copy of the version of the Bill that was reviewed is attached for your convenience.

We will briefly recap a little of the history on the revocation of the gaming device licenses. Department of Revenue and Taxation (DRT) had been issuing amusement devices licenses for gaming devices prior to 2008. But in the months prior to May 29, 2008, the Director of DRT, in

¹ We attended the March 11, 2013 hearing. Our office was notified via email by Senator Rodriguez's office using our present URL, guamag.org. We responded addressing a memorandum submitted to this committee by Attorney June Mair, counsel for Takecare Insurance Company Inc. On Friday, May 24, 2013, we became aware of a hearing on a substituted Bill 20-32 that had occurred on Thursday at 12:30 p.m. While we were aware a hearing was going to be scheduled, we received no notice of one. We later learned that a notice of the Thursday hearing was sent to our old URL, guamattorneygeneral.com

consultation with the Office of the Attorney General, determined that certain devices that DRT had licensed were illegal gaming devices. These devices included the devices known as Liberty, Liberty II and Super Liberty owned by Guam Music, Inc.(GMI), and Uncle Sam, Pharaoh, and Symbolix owned by others. Later, upon instructions from the then Lieutenant Governor, DRT again issued licenses for the gaming devices.

As a result of DRT issuing the licenses, the Attorney General brought a suit against DRT to force it to follow the law and revoke the licenses it had issued (SP141-08). The Court ordered DRT to revoke the licenses forthwith. Then GMI intervened in SP141-08 asking the court to stop DRT from revoking the licenses. But DRT had already complied with the court order by revoking GMI's licenses. Shortly thereafter, GMI brought a second lawsuit asking the court to order DRT to issue it licenses for its gaming devices. Thus, in both cases, GMI had no licenses for its devices and was asking the court to order DRT to issue licenses for its gaming devices. Both cases were recently dismissed by the parties.

The dismissal of the two GMI cases did nothing to change the mandate of the law prohibiting the licensing of gaming devices. Indeed, the dismissal of the two Superior Court cases means GMI is no longer attempting to get the court to force DRT to issue licenses for its gaming devices. At the time of the dismissal of the two cases, GMI did not have licenses for its gaming devices and, therefore, could not place the devices in gaming rooms for use by the public. DRT had previously revoked GMI's licenses because the law prohibits DRT from issuing licenses for gaming devices. With the dismissal of the cases, GMI gave up its attempt to get the courts to order DRT to issues the licenses.

This dismissal of the cases did not change the law that makes the licensing of gaming devices illegal. The law remained the same as it was when DRT refused to issue the licenses in May of 2008 because DRT had determined the devices were illegal gaming devices and when DRT obeyed the court's August 18, 2008 decision and order in SP141-08 and forthwith revoked the licenses. There is no rational basis to conclude that dismissal of the two cases meant DRT could issue licenses for GMI's or anyone else's gaming devices.

Section 97102(b)(i) and (ii) of the Bill

The substituted Bill essentially replaces the four percent (4%) assessment on all healthcare insurance premiums paid in Guam with a new revenue source for the GMHA Healthcare Trust and Development Fund ("Fund"). Section 97102(b) provides that the Fund will be financed by "licensing fees, GRT and income tax collected from gaming companies and a 4% assessment fee income from gaming devices as provided by 3 GAR § 7001 et seq."

The section further provides:

This includes those electronic gaming devices referred to in §7114(a)(5) and licensed per 11 GCA, Chapter 22, Article 2. These devices shall be known as the Liberty, Symbolix, and Match Play electronic gaming devices and only those

registered with the Department of Revenue and Taxation prior to August 1, 2001 pursuant to 3 GAR §7114(a)(5).

Notwithstanding any other provision of law, the collection of a special four percent (4%) assessment fee on income on all gaming devices authorized to be licensed pursuant to 11 GCA §22202(f) and 3 GAR §7114(a)(5), to be known as the “*GMHA Trust Fund Fee*”.

Conflict in Law

At the present time, Guam law prohibits the licensing of gaming devices. Title 11 G.C.A. § 22202 prohibits the licensing of slot machines or amusement devices set to make progressive or automatic payouts. It further provides that no gambling device as defined in 9 G.C.A. § 64.20(b)² shall be licensed.

The rules and regulations referred to in Section 97102(b) conflict with Guam law as they permit the type of gambling that is now prohibited by 11 G.C.A. § 22202 and 9 G.C.A. § 64.20(b).

Title 3 GAR § 7114(a) states, in relevant part:

The following are the only limited gaming activities authorized in Guam under this Act [i.e., under this regulation]:

* * *

(5) Electronic gaming devices that have been registered, or were at any time previously registered, by the Department of Revenue and Taxation pursuant to 11 Guam Code Annotated, Chapter 22, Article 2, prior to August 1st 2001.

This regulation authorizing the licensing of the “electronic gaming devices” directly conflicts with the prohibition against licensing such devices found in 9 GCA § 64.20(b). When an agency regulation conflicts with a duly enacted law, the law and not the regulation must be followed. Of course, the Legislature may amend the law by enacting the conflicting regulation into law.

Rules and Regulations Improperly Promulgated

² 9 G.C.A. § 64.20(b) provides:

[G]ambling device means any coin operated device which, when operated, may return winnings (other than free games not redeemable for cash) of value to the user based partially or completely upon chance, by the operation of which a person may become entitled to receive winnings of value. It does not include pinball and other amusement machines or devices which are predominantly games of skill, whether affording the opportunity of additional chances or free plays or not. It does include any slot machines, video poker machines and other machines or devices which afford the opportunity of winnings, payouts, malfunction refunds to the player, or giving the player or user anything of value under any guise or form based partially or completely upon chance.

(emphasis added).

Furthermore, there is no record that these rules and regulations complied with the Administrative Adjudication Law (“AAL”) and as such are unenforceable. Title 5 G.C.A. § 9301 requires a public hearing and an economic impact statement before any rule is adopted. Neither a record of a public hearing nor an economic impact statement was submitted to the Legislature with the proposed rules and regulations. Since the agency did not adhere to these requirements in the AAL, the rules and regulations cannot be implemented as having the full force and effect of the law.

Unlawful Delegation of Legislative Authority

The most widely used test to determine the validity of a delegation of power is the adequacy of the standards declared by the legislature to guide the delegate's decisions about what rules to issue. 1 Sutherland Statutory Construction § 4:16 (7th ed.) A law vesting discretionary power in an administrative officer must properly define the terms under which the discretion is to be exercised, and intelligible standards must be provided to guide the officer in the execution of the delegated power, but criteria so narrow as to govern every detail necessary in the execution of the delegated power is not necessary. Forest Preserve Dist. of Du Page County v. Brown Family Trust, 323 Ill. App. 3d 686, 257 Ill. Dec. 484, 753 N.E.2d 1110 (2d Dist. 2001).

Public No. 26-52:4 simply authorized DRT “to create a comprehensive regulatory scheme to regulate all gaming activities on Guam; *provided*, that the rules and regulations shall restrict gaming activities to those authorized and licensed on Guam as of August 1, 2001.” This delegation of authority to promulgate rules to regulate all gaming activities on Guam did not provide adequate standards to guide the agency about what rules to issue. Since the law did not provide adequate standards to DRT to create rules to regulate gaming activities on Guam, 3 GAR § 7001 et seq. is unenforceable as an invalid delegation of legislative authority.³

Section 6 of the Bill

Sections 97102(b) and 6 of the Bill attempt to legalize gaming devices that are currently deemed as illegal gambling devices. While it is the prerogative of the Legislature to legalize these gaming devices, the proposed language in Section 97102(b) and Section 6 of the legislation are ambiguous and subject to different interpretations as was discussed during the committee of the whole last Friday.

³ This is why the Compiler of Laws made the following 2012 note when publishing the regulations in 3 GAR § 7001 et seq.:

However, section 4 of Public Law 26-52 did not authorize the Department of Revenue and Taxation to repeal and reenact existing Guam law. Section 4 of Public Law 26-52 authorized the Department of Revenue and Taxation only to “promulgate necessary rules and regulations to create a comprehensive regulatory scheme to regulate all gaming activities on Guam.” Public Law 26-52:4 (Oct. 17, 2001). The gaming control regulations are not codified in the Guam Code Annotated, but placed in this chapter. (emphasis added). 3 GAR, Ch. 7, 2012 Head Note. Hence, the “rules and regulations” from DRT that are cited from the Compiler’s website are not law and have no force and effect if they conflict with existing law.

By listing the electronic gaming devices known as the Liberty, Symbolix and Match Play, it appears to be the Legislature's intent to make these specifically named gaming devices legal. This is even more apparent in Section 6 which amends 11 G.C.A. § 22202 by adding the gaming devices known as Liberty and Match Play to the list of amusement devices that DRT is permitted to license.⁴

The Bill creates an ambiguity by referencing DRT regulations that conflict with existing law. As the Compiler of Laws points out (see footnote 2), DRT has no authority to repeal and reenact existing law. The ambiguity is whether the Bill intends to enact into law, by reference, language from these regulations. In other words, the ambiguity is whether the intent of the Bill is to change the amusement device licensing law in order to allow, by reference, the licensing of the gaming devices listed in the Bill. However, it could also be argued that the two Sections refer to invalid regulations and as such have no legal effect. This ambiguity could mean that the revenue source may not be a viable funding source for lending institutions.

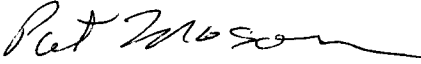
Miscellaneous

Please note that the Bill attached had a technical error. The Section to create the GMHA Healthcare Trust and Development Fund and to enact the *GMHA Healthcare Trust and Development Act of 2013* is contained in Section 1 of the Legislative Findings and Intent but not in the actual legislative enactments.

Conclusion

In our opinion, Section 97102(b)(i) and (ii) and Section 6 of Bill No. 20-32 (COR) are legally problematic and unenforceable for the reasons discussed above. They are ambiguous and do not clearly indicate whether the named gaming devices would become legal. References to 3 GAR § 7001 et seq. create an ambiguity which can be cured by deleting such references. If it is the intent of the Bill to legalize and tax certain gaming devices, the Bill could clearly provide for this in 11 G.C.A. § 22202 and repeal existing conflicting laws including Guam's gambling laws.

OFFICE OF THE ATTORNEY GENERAL
Leonardo M. Rapadas, Attorney General

By: 
J. Patrick Mason
Deputy Attorney General

cc: All Senators of the *I Mina'trentai Dos Na Liheslaturan Guahan*

⁴ It should be noted that at least one other operator or company that operates amusement or gaming devices recently complained to the Office of the Attorney General that Bill 20-32 may create a monopoly for another operator.

**MINA' TRENTAI DOS NA LIHESLATURAN GUAHAN
2013 (FIRST) Regular Session**

Bill No. 20-32 (COR), as Substituted by the
Committee on Health & Human Services,
Health Insurance Reform, Economic Development, and
Senior Citizens

Introduced by:

D.G. Rodriguez, Jr.

**AN ACT TO ESTABLISH A HEALTHCARE TRUST
AND DEVELOPMENT FUND, BY ADDING A NEW
CHAPTER 97 TO TITLE 10, GUAM CODE
ANNOTATED, AND AUTHORIZING THE
EXPENDITURE OF MONIES IN THE FUND FOR THE
SPECIFIC PURPOSE OF PAYING THE OUTSTANDING
DEBT PAYABLES OF THE GUAM MEMORIAL
HOSPITAL AUTHORITY, AND ESTABLISH AND
FUNDING A GMHA URGENT HEALTHCARE CENTER
ON THE HOSPITAL PREMISES FOR NON-
EMERGENCY PATIENTS; THIS ACT TO BE CITED
AS "THE GMHA HEALTHCARE TRUST AND
DEVELOPMENT ACT OF 2013."**

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

2 **Section 1. Legislative Findings and Intent:** *I Liheslaturan Guåhan*
3 finds that the Guam Memorial Hospital Authority is seriously underfunded,
4 resulting in consistent, chronic shortages in all operational areas that
5 jeopardize the ability of Guam Memorial Hospital to adequately fulfill its
6 mission.

7 The full scope and negative impact of the Guam Memorial Hospital
8 Authority's outstanding debts, in excess of \$23,000,000 dollars, came to
9 light during the Joint Status Hearing conducted by the Committee on Health
10 & Human Services and the Committee on Finance, on April 18, 2012. *I*

1 *Lihe slaturan Guåhan* further finds that in 2012, the federally approved
2 discount provider for medical supplies garnished approximately \$500,000
3 (taken from Medicare reimbursements through the U.S. Treasury) for non-
4 payment of GMHA's debt. In March 2013, GMHA paid \$5,000,000 of its
5 outstanding obligations using Compact-Impact funds, thus reducing its
6 obligation to approximately \$18,000,000 as of March 31, 2013.

7 At the urging of the hospital administration, and with the support of the
8 GMHA Board of Trustees and the Executive Branch of the government of
9 Guam, it is the intent of *I Lihe slaturan Guåhan* to address this lack of
10 funding and to identify and provide additional sources of funding for the
11 hospital.

12 It is the intent of *I Lihe slaturan Guåhan* that this additional funding will be
13 to deposited into the 'GMHA Healthcare Trust and Development Fund',
14 apart and separate from all other funds and accounts of the government of
15 Guam to facilitate and supplement the development and maintenance of
16 Guam Memorial Hospital.

17 In the expenditure of GMHA HealthCare Trust and Development Fund
18 monies, it is the intent of *I Lihe slaturan Guåhan* that the first priority in the
19 expenditure of Fund monies will be to extinguish the existing hospital debt,
20 as per Exhibit "A" appended to this Act, by way of a line of credit, a
21 revolving loan fund, and/or a direct loan agreement, secured and paid with a
22 funding commitment from the Fund.

23 *I Lihe slaturan Guåhan* further finds that in addition to paying off the
24 existing hospital debt as expeditiously as possible will afford hospital
25 administration and the GMHA Board of Trustees the opportunity to address

1 long term, systemic problems at the hospital which, in addition to the gross
2 underfunding from the government of Guam, have also contributed to the
3 accumulation of such a large debt.

4 These problems include, but are not limited too, the disproportionately high
5 percentage of non-emergency, urgent care services provided by the
6 Emergency Services (ER) Department; the lack of a viable, efficient
7 pharmaceutical utilization and treatment tracking computer system (and
8 software) for procurement, billing and collection purposes; and the need to
9 establish management and operational reform practices.

10 *I Liheslaturan Guåhan* further finds that Public Law 27-77 directed the
11 Compiler of Laws in §1610 and published all rules and regulations or
12 amendments thereto received prior to the commencement codified in Bente
13 Siete Na Liheslaturan Guahan. Those regulations include the gaming
14 regulations found in Section 3 GAR §7001.

15 *I Liheslaturan Guåhan* finds the revenues to be generated from the licensing,
16 fees, gross receipts taxes, and income taxes, and a new special assessment
17 fee paid by the gaming industry will greatly benefit Guam Memorial
18 Hospital.

19 *I Liheslaturan Guåhan further* finds that after approximately a 5-year period
20 during which licenses for certain gaming machines were not issued, the
21 government of Guam missed the opportunity to collect a minimum
22 \$6,500,000 dollars in GRT and licensing fees over that period, which does
23 not even account for other revenue factors such as income taxes, withholding
24 taxes, etc.. In April 2013, *I Liheslaturan Guahan* further finds these
25 machines were again eligible for licensure and operation pursuant to 3 GAR

1 Section 7114 and subsequently issued regulatory licenses by the Department
2 of Revenue and Taxation.

3 Income tax, gross receipt taxes, licensing fees, and a new Four (4%) GMHA
4 Trust Fee assessment from these recently licensed devices are considered
5 new revenue to the government of Guam. It is the intent of *I Liheslaturan*
6 *Guahan* to capture and retain these revenues exclusively to subsidize the
7 Guam Memorial Hospital Authority's effort to eliminate its longstanding
8 debt to vendors and to start the establishment of an GMHA operated
9 outpatient Urgent Healthcare Center.

10

11 "CHAPTER 97

12 ARTICLE 1

13 GMHA HEALTHCARE TRUST AND DEVELOPMENT FUND

14 § 97101. Short Title.

15 § 97102. Guam HealthCare Trust and Development Fund.

16 § 97103. Use of Funds for the Development and Support of Health Care
17 Services Programs and Facilities.

18 § 97104. Submission of Detailed Report of Expenditures on a Quarterly
19 Basis.

20 § 97101. **Short Title.** This Act may be cited as "*The GMHA Healthcare*
21 *Trust and Development Act of 2013.*"

22 § 97102. **Guam Healthcare Trust and Development Fund.**

23 (a) Notwithstanding any other law, there is hereby created, separate
24 and apart from other funds and accounts of the government of Guam, a fund

1 known as the *GMHA Healthcare Trust and Development Fund* ('Fund'). The
2 Fund shall not be commingled with the General Fund or any other fund or
3 account of the government of Guam, and shall be kept in a separate bank
4 account, subject to legislative appropriation as provided pursuant to this
5 Chapter, to be used by the designated public healthcare agencies of the
6 government of Guam for the purposes authorized. The Fund, to include any
7 monies in the Fund dedicated and dispersed for purposes specified in this
8 Act, **shall not** be subject to the transfer authority of *I Maga'lahan Guåhan*.

9 (b) The Fund shall be financed by:

10 (i) licensing fees, GRT, and income tax collected from the
11 companies involved in gaming as provided by 3 GAR §7001 et seq.
12 This includes those electronic gaming devices referred to in
13 §7114(a)(5) and licensed per 11 GCA, Chapter 22, Article 2. These
14 devices shall be known as the Liberty, Symbolix, and Match Play
15 electronic gaming devices and only those registered with the
16 Department of Revenue of Taxation prior to August 1, 2001, pursuant
17 to 3 GAR §7114 (a)(5).

18 (ii) Notwithstanding any other provision of law, the collection
19 of a special four percent (4%) assessment fee on income on all gaming
20 devices authorized to be licensed pursuant to 11 GCA §22202 (f) and
21 3 GAR §7114(a)(5), to be known as the "*GMHA Trust Fund Fee*".

22 (c) The Department of Revenue and Taxation (hereinafter the
23 *Department*) shall collect such fees and transmit them to the Treasurer of
24 Guam for deposit into the Fund. The Department shall:

1 (i) Develop the necessary forms and instructions for the
2 licensing of persons and companies as set forth in 3 GAR §7001 and
3 §97102 (b)(i)(ii) and of this Act;

4 (ii) Act as the repository for the Fund for use as authorized
5 pursuant to this Article in carrying out the purpose of the Fund.

6 (d) The Department of Administration shall be the disbursing and
7 certifying officer for the Fund, and shall comply with the provisions of
8 Chapter 14 of Title 4, Guam Code Annotated. The Director of
9 Administration shall maintain appropriate records of the Fund and shall
10 provide accounting and auditing services for the Fund.

11 (i) The Department of Administration *shall* disperse funds in a
12 manner compliant with §97103 of this Chapter.

13 **§ 97103. Allocations and Use of Funds; Authorized.**

14 (a) Not less than seventy-five percent (75%) of the funds deposited
15 into the GMHA Healthcare Trust and Development Fund shall first be
16 utilized by the Guam Memorial Hospital Authority to obtain a line of credit,
17 a revolving loan fund, and/or a direct loan agreement to retire outstanding
18 prior years debt as per Exhibit "A" appended to this Act, and for that
19 specific purpose, the fees collected pursuant to this Article shall be annually
20 allocated and are hereby APPROPRIATED, and SHALL CONTINUE TO
21 BE DEEMED APPROPRIATED, ANNUALLY, to the Guam Memorial
22 Hospital Authority for the sole and specific purpose of paying the debt
23 service for the line of credit, revolving loan fund, and/or a direct loan
24 agreement to retire their outstanding prior years debt obligations. This shall

1 continue and shall remain in full force and effect until specifically revoked
2 or amended pursuant to law.

3 (b) As fees are received and deposited into the Fund, a pro-rata
4 share of available funds shall subsequently be transferred to the Guam
5 Memorial Hospital Authority.

6 The Guam Memorial Hospital Authority shall establish a bank
7 account apart and separate from all other bank accounts of GMHA and the
8 government of Guam, and *shall* deposit all funds allocated and appropriated
9 pursuant to this Subsection into the account, and from which such funds
10 shall only be drawn upon for the sole and specific purpose of debt service
11 payments for the line of credit, revolving loan fund, and/or a direct loan
12 agreement.

13 (c) Up to twenty-percent (20%) of the funds in the GMHA
14 Healthcare Trust and Development Fund, shall be allocated to the Guam
15 Memorial Hospital Authority for the purpose of subsidizing the
16 establishment and operation, in whole or part, including as seed or start-up
17 money, of an Urgent Healthcare Medical Center within the Guam Memorial
18 Hospital Authority facility and grounds. The fees collected pursuant to this
19 Article shall be annually allocated and are hereby APPROPRIATED, and
20 SHALL CONTINUE TO BE DEEMED APPROPRIATED, ANNUALLY,
21 to the Guam Memorial Hospital Authority for the sole and specific purpose
22 of subsidizing the establishment and operation, in whole or part, including as
23 seed or start-up money, of an Urgent Healthcare Medical Center within the
24 Guam Memorial Hospital Authority facility and grounds. This shall continue
25 and shall remain in full force and effect until specifically revoked or
26 amended pursuant to law.

1 (d) After the final payment are first made to the Guam Memorial
2 Hospital Authority for the purposes completing its financial
3 obligations provided for in §97103(a), all fees received pursuant to
4 §97102 (b)(i)(ii) of this Act shall continue in full force and effect
5 and be used for the operations of the Guam Memorial Hospital
6 Authority pursuant to §97103(c).

7 (e) Fees received pursuant to this § 97103 *shall not* be subject to the
8 transfer authority of *I Maga'lahan Guåhan*, nor may they be
9 expended for purposes not specifically provided for pursuant to
10 this Chapter.

11
12 **§97104. Submission of Detailed Report of Expenditures on a Quarterly**

13 **Basis.** The Administrator of the Guam Memorial Hospital Authority shall
14 submit to *I Liheslaturan Guåhan* and *I Maga'lahan Guåhan* a detailed report
15 of the expenditures of the GMHA Healthcare Trust and Development
16 Fund on a quarterly basis.

17 **Section 3. Authorization to Borrow; Guam Memorial Hospital**
18 **Authority.** A new Subsection (v) is hereby added to §80109, Chapter
19 80, Division 4, Title 10, Guam Code Annotated, to read:

20 (1) "(v) Arrange a line of credit, a revolving loan fund, and/or a direct
21 loan, the total cumulative amount *not to exceed* Eighteen million
22 dollars (\$18,000,000) with banks or other lending institutions
23 licensed to do business on Guam. All terms of the line of credit, a
24 revolving loan fund, and/or a direct loan agreement *shall* be
25 negotiated by the Guam Memorial Hospital Authority and
26 *I Maga'lahan Guåhan* [Governor] in the best interests of the people

1 of Guam, through and with the assistance of the Guam Economic
2 Development Authority (GEDA). The terms of the line of credit, a
3 revolving loan fund, and/or a direct loan *shall* include the
4 following:

5 (2) the line of credit, a revolving loan fund, and/or a direct loan *shall*
6 be solely used by the Authority to retire outstanding prior year debt
7 to GMHA House Doctors, healthcare service providers,
8 pharmaceutical suppliers, vendors, and all other payables, as per
9 Exhibit "A", and provided that the loan *shall not* be used for other
10 purposes, except as further provided pursuant to this Subsection
11 (v);

12 (3) *no charge shall* be levied by a lender for making the loan;

13 (4) the interest rate *shall* be subjected to negotiation between GEDA,
14 the Board of Trustees, *I Magsalahen Guahan* and the lender; such
15 interest rate *shall* be computed on a monthly average and based on
16 the actual amount extended to the GEDA; and

17 (5) interest earned by the lender *shall* be exempt from taxation by the
18 government of Guam.

19 (6) *I Magsalahen Guahan* is authorized to pledge funds which Guam
20 *shall* receive from §97103(a) of Chapter 97, Title 10, Guam Code
21 Annotated, as a security for repayment of the loan, in addition to
22 any revenues which may be pledged by the Authority. *I*
23 *Magsalahen Guahan* and the Authority are hereby authorized to
24 execute the loan agreement, a revolving loan fund, and/or a direct
25 loan agreement and other necessary documentation.

1 (7) The line of credit authorized in this Act *shall not* be used in the
2 calculation for rate relief in any rate methodology for any ratecase
3 before the Public Utilities Commission.

4 (8) The Guam Memorial Hospital Authority shall pledge all or part of
5 its revenues from the GMHA Healthcare Trust and Development
6 Fund as the primary source of repayment for the line of credit,
7 revolving loan fund, and/or a direct loan, as authorized and
8 appropriated pursuant to §97103(a) of Chapter 97, Division 2, Title
9 10, Guam Code Annotated. If required, the Authority may pledge,
10 in addition, only its revenues as a security for repayment as
11 determined by the negotiated agreement.

12 (9) Any money borrowed *shall* be repaid in accordance with the
13 terms established in the negotiated agreement, but *not to exceed* an
14 initial amortization period of more than fifteen (15) years.

15 (10) Notwithstanding the provisions of Chapter 6 of Title 5 of the
16 Guam Code Annotated, the government of Guam hereby waives
17 immunity from any suit or action in contract upon the loan and
18 guaranty but *does not* waive sovereign immunity as to the personal
19 liability of elected or appointed officials and employees of the
20 government Guam."

21 **Section 4. GMHA Urgent HealthCare Center.**

22 (a) **Legislative Intent.** It is the *intent* of *I Liheslaturan Guåhan* to
23 mandate the establishment and operation of an outpatient Urgent
24 Healthcare medical services facility within the GMHA facility
25 premises.

1 (b) A new §80122 is hereby added to Chapter 80 of Division 4,
2 Title 10, Guam Code Annotated, to read:

3 “§80122. **Urgent Care Center, Established.** (a) The Guam
4 Memorial Hospital Authority *shall* establish, within the premises of
5 the hospital facilityan Urgent Healthcare Medical Services Center for
6 non-emergency outpatient medical services. The urgent care center
7 shall serve as a facility to treat patients who have an injury or illness
8 requiring immediate care, but are not apparently serious enough to
9 require emergency room attention.

10 (b) Criteria for an Urgent Care Center. The Urgent Care
11 center shall seek to develop and maintain a standard of medical care
12 that meets the minimum criteria and requirements for primary care or
13 urgent care services, as set forth by the Joint Commission and the
14 CMS.

15 (f)The Guam Memorial Hospital Authority (GMHA) *shall*
16 within six (6) months of enactment of this Act, establish a working
17 group comprised of the necessary expertise, including professional
18 GMHA Emergency Medicine representation, to develop: (1) Urgent
19 Care Center operational criteria; (2) identify adequate, available space
20 for the establishment of the Primary Care Center or Urgent Care
21 Center; and, (3) commence the requisite processes necessary for
22 GMHA to establish an Urgent Care Center.”

23 **Section 6. Exhibit “A”.** Exhibit “A”, appended to and incorporated
24 in this Act, listing the Guam Memorial Hospital Authority’s outstanding
25 obligations, is adopted, provided, however, GMHA shall update the listing

1 to reflect the outstanding payables due as of the date of enactment of this
2 Act, which shall be the listing of payables authorized to be extinguished
3 pursuant to this Act.

4 **Section 7. §22202 (f) Chapter 22, Title 11, Guam Code**
5 **Annotated is hereby amended to read:**

6 (f) electronic gaming devices authorized by 3 GAR §7114(a)(5),
7 registered and licensed by the Department of Revenue and
8 Taxation as of August 1, 2001, shall be assessed an annual
9 licensing fee of Five Hundred Twenty Five Dollars (\$525.00)
10 commencing 1 July, 2013. A Twenty Five Dollar (\$25.00) increase
11 in licensing fees shall be assessed per device every year thereafter;
12 to wit devices known as the Liberty, Symbolix, and Match Play.
13 ~~(f) on each video type symbolic amusement machine or any~~
14 ~~other amusement device that is not listed in this Section, Five~~
15 ~~Hundred Dollars (\$500.00);~~

16 **Section 7. Severability.** *If any provision of this Act or its application*
17 *to any person or circumstance is found to be invalid or contrary to law, such*
18 *invalidity shall not affect other provisions or applications of this Act which*
19 *can be given effect without the invalid provisions or application, and to this*
20 *end the provisions of this Act are severable.*

21 **Section 8. Effective Date.** This Act shall become immediately
22 effective upon enactment.

23

Exhibit “A”

for

***“GMHAHEALTHCARE TRUST AND
DEVELOPMENT ACT OF 2013”***

EXHIBIT "A" BILL 20-32, as SUBSTITUTED

GMHA ACCOUNTS PAYABLE AS OF 3/31/2013

SUMMARY	TOTAL	0 - 30	31 - 60	61 - 90	OVER 90
Payroll Payables	839,176	139,808	278,774	281,008	139,586
- GOV RET-DBP					
- GOV RET-DCP					
- DEPT OF REV 485	4,006,199				4,006,199
GPA	352,967		352,967		
GTA	150,381		58,832	415	91,134
GWA	83,926	32,228	5,977	25,466	20,255
House Doctors	702,731		175	8,366	694,191
Vendor Payables	12,274,163	494,371	1,214,112	1,136,450	9,429,229
Dietary Vendors	212,381	71,238	70,618	36,410	34,116
Patient Refund	11,277			1,128	10,149
as of 03/31/2013	\$18,633,201	737,645	1,981,456	1,489,242	14,424,859
54 TREASURER OF	4,006,198.76				4,006,198.76
164 GUAM FEDERATI	6.00	0.50	1.00	1.00	3.50
166 CALVO'S SELEC	839,170.23	139,807.76	278,772.93	281,006.57	139,582.97
	839,176.23	139,808.26	278,773.93	281,007.57	139,586.47
224 ANNAKUTTY MAT	13,786.14				13,786.14
249 ANTONIO L GAR	96,957.94				96,957.94
307 EDGAR M MAGCA	8,932.52				8,932.52
231 EDNA V SANTOS	40,725.15				40,725.15
202 FOJAS MILLICO	20,523.45				20,523.45
247 GLADYS LINSAN	87,914.48				87,914.48
206 GUAM ORTHOPAE	17,624.07			2,623.13	15,000.94
392 GUAM SURGICAL	4,584.95				4,584.95
256 ISLA PEDIATRI	11,541.65				11,541.65
229 JAROSLAV RICH	112.00				112.00
319 JOEL MARC RUB	958.36				958.36
271 MA CRISTINA M	45,441.67				45,441.67
323 MARIA ANDREA	17,481.79			112.00	17,369.79
265 MEDICAL PROFE	145.12				145.12
377 MPG PEDIATRIC	35,314.26				35,314.26
212 PACIFIC MEDIC	49,323.67			2,554.05	46,769.62
237 PEDIATRIC & A	47,653.76				47,653.76
282 SDA CLINIC	74,620.17				74,620.17
328 SEAN FITZSIMM	1,020.29				1,020.29
201 SHEFF CONRAD,	741.12				741.12
281 THE DOCTORS C	9,188.85		175.00	1,437.90	7,575.95
254 THE NEUROLOGY	6,486.20			344.40	6,141.80
361 YOLANDA CARRE	111,653.69			1,294.26	110,359.43
	702,731.30		175.00	8,365.74	694,190.56
400 GUAM POWER AU	352,966.93		352,966.93		
401 GTA SERVICES	150,380.50		58,832.09	414.59	91,133.82
402 GUAM WATERWOR	78,270.25	32,953.71	2,330.31	22,810.38	20,175.85
403 GUAM WATERWOR	101.36	13.21	14.57	73.58	
404 GUAM WATERWOR	-503.73	-739.34	77.05	158.56	
405 GUAM WATERWOR	1,197.44		1,197.44	-79.28	79.28
406 GUAM WATERWOR	4,861.12		2,358.09	2,503.03	
	83,926.44	32,227.58	5,977.46	25,466.27	20,255.13

GMHA
ACCOUNTS PAYABLE AS OF 3/31/2013

SUMMARY	TOTAL	0 - 30	31 - 60	61 - 90	OVER 90
1068 3M KHSO298	92,716.51	11,392.17	15,668.76	799.19	64,856.39
1003 ABBOTT LABORA	19,818.64				19,818.64
20501 ACCOUNT CONTR	-92.57		-92.57		
7310 AHR MEDICAL	479,721.80				479,721.80
8779 AIRGAS - GASP	379.44				379.44
5578 AMBROS INC	23,598.00	5,854.00	8,719.00	5,475.00	3,550.00
5869 AMERICA'S BES	2,988.50	2,988.50			
7034 AMERICAN OVER	2,342.26				2,342.26
2032 AMERICAN PRIN	2,280.86	1,757.30	523.56		
1010 AMERICAN RED	348,841.00	44,162.00	107,406.00	68,220.00	129,053.00
7900 ANN MUNA	54.33	54.33			
5825 APEX ENGINEER	3.44				3.44
8335 ASHE/AMERICAN	125.00				125.00
1166 BAXTER HEALTH	10,269.33	-3,682.76	597.75	13,354.34	
1188 BECKMAN COULT	5,815.48		5,815.48		
4117 BENSON GUAM E	63,082.00	1,107.93	4,527.30	3,046.59	54,400.18
50046 BLANCAFLOR MA	300.00				300.00
1182 CARIS MEDICAL	4,540.60	4,540.60			
50013 CAROLINE YAP	6,000.00	6,000.00			
4264 CARS PLUS LLC	50.23	50.23			
7147 CERNER CORPOR	263,054.13	-88,714.14			351,768.27
1223 COLLEGE OF AM	14,544.00				14,544.00
1178 COLORADO DEPT	13,923.00				13,923.00
4012 COMFORT AUTO	685.00			685.00	
6073 COMPACIFIC	1,534.00	1,298.00	236.00		
2079 COMPUTERMART	2,575.00	400.00	2,175.00		
8351 CONNECT IMAGI	14,376.68				14,376.68
5079 CONSOLIDATED	173.99				173.99
4126 CONSTRUCTION	1,448.40	1,448.40			
5677 CREATIVITEES	1,528.00		1,528.00		
2044 DATA MANAGEME	10,536.00				10,536.00
5060 DELOITTE & TO	20,000.00			20,000.00	
5213 DEPO RESOURCE	1,577.50				1,577.50
4131 DETRY PUMPING	1,738.00		286.00	566.00	886.00
1021 DIAGNOSTIC LA	302,854.71		94,096.16		208,758.55
2077 DISCOUNT COMP	14,572.55	7,248.50	2,549.75	1,274.50	3,499.80
5619 DOOLEY ROBERT	8,221.90				8,221.90
8964 DR PATRICIA T	437.50				437.50
50046 DUENAS VINCEN	1,235.00				1,235.00
4314 ECOLAB (GUAM)	387.06	387.06			
5233 ESSENTIAL CON	40,000.00		40,000.00		
5104 FISHER & ASSO	92,959.25	26,988.75	26,565.00	21,026.75	18,378.75
4292 FORMFAST INC	13,435.00		13,435.00		
5007 G4S CASH SOLU	2,000.00	2,000.00			
50012 GARRIDO JOHN	1,995.00				1,995.00
1001 GENESIS ISLAN	433,913.27	55,463.90	84,330.95	99,961.98	194,156.44
1418 GENPRO INTERN	980.00				980.00
4365 GETS BUSINESS	6,744.26			287.50	6,456.76
5696 GRAPHIC CENTE	60.00		60.00		
4275 GUAM MEDICAL	30,345.23				30,345.23
2017 GUAM MODERN O	399.00				399.00
4010 GUAM PACIFIC	2,763.48	150.48	2,613.00		
9481 HAWAII MEDICA	6,000.00				6,000.00
5087 HAWAIIAN TELC	24,508.78			24,508.78	
7840 HEALTH LINE S	10,635.00				10,635.00
8020 HEALTH SERVIC	4,446.51				4,446.51
50012 HERNANDEZ MAR	600.00				600.00
2009 HOI MING PRIN	844.56	570.96	273.60		
1027 HOSPIRA WORLD	36,043.85	3,128.50	30,911.17	2,004.18	

GMHA
ACCOUNTS PAYABLE AS OF 3/31/2013

SUMMARY	TOTAL	0 - 30	31 - 60	61 - 90	OVER 90
8667 I-CONNECT	486.09				486.09
5180 INDUSTRIAL HY	150.00				150.00
8840 INFOPRINT SOL	7,224.00				7,224.00
5688 INKS & GRAPHI	2,385.00		2,385.00		
5815 INNERWORKINGS	21,452.31	3,883.40	6,154.67	6,031.23	5,383.01
4251 INTELLITYPE T	4,615.88	2,163.83			2,452.05
1397 INTERNATIONAL	105,076.08	2,364.46	9,911.86	30,149.77	62,649.99
1036 ISLAND EQUIPM	87,452.75	4,594.10	9,381.19	59,360.50	14,116.96
5089 IT&E OVERSEAS	527.50		527.50		
5208 IVANS	765.00		382.50	382.50	
6016 JC MARKETING	308,372.48	84,093.36	30,384.38	20,876.10	173,018.64
4177 JMI-EDISON	596,221.57	8,673.60	36,416.91	136,956.80	414,174.26
5903 JOHNSTONE SUP	282.30	282.30			
4175 J&B MODERN TE	3,932.50				3,932.50
2047 KEANE INC	409,979.19	63,711.05	10,782.00	73,981.12	261,505.02
1955 LANDMARK DIST	198,470.78	94,497.80	74,609.70	29,363.28	
5005 LITTLE PALM O	28,500.00		28,500.00		
1416 M D WHOLESALE	343,655.44	16,656.33	50,358.36	49,086.29	227,554.46
1231 MALLINKRODT I	996.00				996.00
50046 MANALOTO MA C	850.00				850.00
5689 MARIANAS VARI	224.00				224.00
1400 MEDPHARM	269,341.41	30,516.18	102,354.07	47,256.97	89,214.19
1348 MEDTRONIC USA	21,200.00				21,200.00
2012 MEGABYTE	730.48		517.12		213.36
2067 MEREDITH DIGI	4,757.55		4,757.55		
4214 MGT CORPORATI	396.00	396.00			
2018 MICRO OFFICE	8,101.20				8,101.20
1044 MICROMED SUPP	3,850.00	3,850.00			
1049 MIDWEST MEDIC	103,934.54		787.49	34,066.46	69,080.59
4006 MOTOROLA	3,966.25		793.25	793.25	2,379.75
7475 NALCO COMPANY	3,201.27				3,201.27
1014 NATIONAL DRUG	156.60	156.60			
7010 NATIONAL ECON	900.00				900.00
7377 NATIONAL MEDI	22,000.00			22,000.00	
2001 NATIONAL OFFI	20,734.72	8,080.16	12,654.56		
1225 NOVIS PHARMAC	25,406.10	13,942.10	11,464.00		
5682 ONEDERA'S INC	5,688.99	436.50	1,458.85	2,165.77	1,627.87
1179 OREGON DEPT O	30,020.00			7,656.00	22,364.00
4047 OTIS ELEVATOR	4,372.57			4,372.57	
4301 PACIFIC GUAM	18,496.74	6,152.50	4,650.00	1,200.00	6,494.24
5115 PACIFIC LAUND	222,009.03		110,835.59	87,855.25	23,318.19
4045 PACIFIC POWER	7,281.00		7,281.00		
5033 PACIFIC TECHN	1,095.51	1,095.51			
4127 PACIFIC WASTE	5,407.48	1,989.58	3,417.90		
1083 PFIZER PHARMA	16,429.64	16,429.64			
3049 PHILIPS HEALT	43,420.65				43,420.65
4260 PMBCS	7,741.10				7,741.10
7374 PRACTICE SIGH	18,000.00	9,000.00			9,000.00
1031 PROGRAM SUPPO	5,366,453.10	22,031.35	168,260.39	141,163.56	5,034,997.80
4039 PROVIDER ADVA	1,800.00				1,800.00
1002 QUANTUM PHARM	27,657.52	-450.00	1,046.50	6,986.30	20,074.72
5034 RADIOCOM	13,994.54				13,994.54
5684 REAGAN WILSON	11,500.00		11,500.00		
7818 ROCHE DIAGNOS	804.00	804.00			
50021 ROSARIO-SANCH	50.00	50.00			
1069 ROYAL MEDIA N	57,849.31				57,849.31
1090 RSA GUAM LLC	14,823.00		1,568.00	128.00	13,127.00
8889 SECURESAFE SO	1,200.00	1,200.00			
1018 SERIM RESEARC	2,516.81				2,516.81
1024 SIEMENS HEALT	64,677.54			64,677.54	
1133 SIEMENS MEDIC	11,843.32				11,843.32

GMHA
ACCOUNTS PAYABLE AS OF 3/31/2013

SUMMARY	TOTAL	0 - 30	31 - 60	61 - 90	OVER 90
1240 SIEMENS WATER	3,755.00				3,755.00
5816 SOUTH PACIFIC	796.00	796.00			
2002 STANDARD OFFI	252.92	89.96	162.96		
4020 T-SYSTEM INC	27,495.60		27,495.60		
1417 TEAL PACIFIC	43,092.00				43,092.00
5010 TNT EXPRESS /	-949.48				-949.48
453 TREASURER OF	930.00				930.00
4195 TREASURER OF	59,762.35			3,523.30	56,239.05
451 TREASURER OF	318.56				318.56
1023 TRILLAMED LLC	19,312.22		6,825.21	12,487.01	
5117 TRIPLE B FORW	6,268.61	619.71	4,333.54	1,315.36	
7375 TRUSTAFF TRAV	965,790.24				965,790.24
5723 TSANG BROTHER	2,100.00				2,100.00
8805 UNITED LITHOG	10,570.00	3,850.00	3,220.00	1,050.00	2,450.00
4091 UNITEK ENVIRO	6,590.00		300.00	6,290.00	
7248 UNIVERSITY OF	375.00				375.00
7248 UNIVERSITY OF	300.00				300.00
5000 US POSTAL SER	5,000.00	5,000.00			
7373 VISTA STAFFIN	20,158.50				20,158.50
8801 WESTERN PACIF	9,500.00		950.00	8,550.00	
1050 WESTSOURCE, M	8,442.20	2,505.14	5,937.06		
2004 XEROX CORPORA	71,965.72	314.82	19,522.73	15,515.65	36,612.52
	12,274,162.74	494,370.69	1,214,112.35	1,136,450.39	9,429,229.31
6000 COCA COLA BEV	8,466.55	3,229.34	5,237.21		
6031 DYNASTY MARKE	20,336.00	2,583.00		2,271.40	15,481.60
6004 GUAM BAKERY,	2,488.35	1,825.10	663.25		
6039 ISLAND CHOICE	561.50	71.50	126.50	110.00	253.50
6055 ISLAND VIEW F	539.00				539.00
6063 J.J.Q. INTERN	5,717.46	4,214.10	1,503.36		
6043 M H ENTERPRIS	31,607.77	7,527.82	2,745.85	14,840.60	6,493.50
6015 MARKET WHOLES	3,982.27	1,386.06	2,596.21		
6020 MICRONESIAN B	51,673.16	22,504.54	27,349.18		1,819.44
6010 PACIFIC PRODU	65,420.43	20,988.47	18,626.70	18,153.72	7,651.54
6021 PAY-LESS MARK	3,395.32		484.14	1,034.14	1,877.04
6012 PEPSI COLA BO	816.75	816.75			
6009 QUALITY DISTR	1,225.82	1,225.82			
6017 SUNNY WHOLES	16,078.90	4,793.50	11,285.40		
6003 TAI FA IMPORT	72.00	72.00			
	212,381.28	71,238.00	70,617.80	36,409.86	34,115.62
30009 CAREFIRST BLU	5,839.52				5,839.52
30009 FIDELA CRUZ M	365.28			365.28	
30009 INTERNATIONAL	1,358.00				1,358.00
30009 TRICARE	1,068.00				1,068.00
30009 TRICARE	518.72				518.72
30009 VICENTE DIEGO	100.00			100.00	
30009 WENHAO HUANG	662.26			662.26	
30009 WPS TRICARE	1,364.94				1,364.94
	11,276.72			1,127.54	10,149.18