



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

JUN 12 2013

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

32-13-480

Office of the Speaker
Judith T. Won Pat, Ed. D.


Date 6/12/13
Time 1:24 PM
Received by [Signature]


RE: Bill No.69-32

Dear Madame Speaker:

Transmitted herewith is Bill No. 69-32 (COR), "AN ACT TO ADD A NEW §5351 TO ARTICLE 6 OF CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES" which was enacted into law without the signature of *I Maga'lahaen Guåhan* as **Public Law 32-040**.

Senseramente,


RAY TENORIO
Acting Governor of Guam

2013 JUN 12 PM 1:52


Attachment: Copy of Bill

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

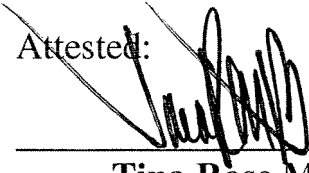
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 69-32 (COR), "AN ACT TO ADD A NEW §5351 TO ARTICLE 6 OF CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE DURATION OF COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY AND RELATED FACILITIES", was on the 28th day of May, 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 29 day of May,
2013, at 12:40 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: JUN 11 2013

Public Law No. 32-040⁰¹

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

Bill No. 69-32 (COR)

As substituted by the
Committee on General Government
Operations and Cultural Affairs;
and amended on the Floor.

Introduced by:

T.C. Ada
B. J.F. Cruz
R. J. Respicio
V. Anthony Ada
Frank B. Aguon, Jr.
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
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 ADD A NEW §5351 TO ARTICLE 6 OF
CHAPTER 5 OF TITLE 5, GUAM CODE ANNOTATED,
RELATIVE TO THE DURATION OF COMMERCIAL
LEASES FOR PUBLIC REAL PROPERTY AND
RELATED FACILITIES.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan*
3 *Guåhan* finds that there is no uniform standard relative to the duration of

1 commercial leases, permits or licenses for the use of government of Guam
2 real property and other related facilities.

3 *I Liheslaturan Guåhan* finds that five years is a reasonable term limit
4 for agencies to enter into commercial leasing, permitting or licensing for the
5 use of government of Guam real property and other related facilities, but
6 also recognizes that terms beyond five years may be warranted to allow time
7 for the lessee, permittee, or licensee to make investments that may be needed
8 to ensure the viability and success of a business plan, and to allow sufficient
9 time to amortize these investments.

10 *I Liheslaturan Guåhan* further finds that public properties and
11 facilities are assets owned by the people of Guam. It is important, therefore,
12 that a standard for leasing government of Guam real property that will
13 improve transparency and clarity in the leasing of public property, and to
14 ensure that “exceptional term contracts” with terms greater than five years
15 be required to be scrutinized by *I Liheslaturan Guåhan*.

16 **Section 2.** A new §5351 is hereby *added* to Article 6 of Chapter 5 of
17 Title 5, Guam Code Annotated, to read:

18 **“§ 5351. Commercial Leasing of Public Real Property**
19 **and Related Facilities.**

20 (a) **Public Real Property and Related Facilities.** From the
21 effective date of this law, and notwithstanding any other
22 provision of law, no commercial contract, lease, permit or
23 license for use of public real property, and related facilities,
24 shall be solicited, negotiated, entered into, or made for a term in
25 excess of five years. This *shall* include any extensions, options
26 and renewals. Any contract, lease, permit or license made,
27 renewed or extended in violation of this law *shall* become void

1 upon the 5th anniversary of the making of such contract, lease,
2 permit or license. This limitation *shall not* apply to residential
3 and agricultural leases to beneficiaries under the *Chamorro*
4 *Land Trust*.

5 (b) **Exceptional Term Contracts.** The Chief Procurement
6 Officer, the Director of Public Works, or the head of a
7 purchasing agency, as authority may exist therefore, may solicit
8 a contract for a term longer than otherwise allowed by this
9 Section (an “Exceptional Term Contract”). Prior to soliciting
10 any Exceptional Term Contract, *I Maga’lahi* (the Governor) or,
11 in the case of an autonomous agency, the Board of Directors,
12 *shall* make a written Determination of Need justifying by a
13 quantifiable sum an Exceptional Term Contract, and specifying
14 the full term, inclusive of extensions, options and renewals, for
15 such contract, and provide a copy of such Determination of
16 Need to the Speaker of *I Liheslaturan Guåhan*. No Exceptional
17 Term Contract shall be solicited *unless* a Determination of
18 Need is obtained from *I Maga’lahi* (the Governor) or, in the
19 case of an autonomous agency, the Board of Directors.

20 (c) Prior to transmitting a Determination of Need to the
21 Speaker of *I Liheslaturan Guåhan*, a notice of solicitation *shall*
22 be published as provided in § 5211(c) of Part B of Article 3 of
23 this Chapter, such notice to conspicuously note the solicitation
24 is for an Exceptional Term Contract, and specifying the term
25 thereof, as well as the date of the proper Determination of
26 Need. Any Exceptional Term Contract made in violation of
27 this Subsection *shall* be void.

1 (d) **Legislative Approval Required for Exceptional Term**
2 **Contracts.** Subsequent to satisfying the requirements of §
3 5351, the commercial contract, lease, permit or license for use
4 of public real property and related facilities *shall* be transmitted
5 to the Speaker of *I Liheslaturan Guåhan* for approval or
6 disapproval, in whole. If *I Liheslaturan Guåhan* takes no
7 action within 60 calendar days from the date of filing with the
8 Speaker, the commercial contract, lease, permit or license *shall*
9 be deemed approved by *I Liheslaturan Guåhan*. A public
10 hearing *shall* be conducted by *I Liheslatura* (the Legislature)
11 during the 60-day review period. Legislative approval *shall* be
12 by enactment into law. Legislative disapproval *shall* be by
13 Resolution.”

14 **Section 3. Severability.** If any provision of this Act, or the
15 application of any part of this Act to any person or circumstance, is held to
16 be invalid as contrary to law, or unenforceable, such holding shall not affect
17 any other provision hereof, nor any other application of this Act which can
18 be given effect to any other person or in any other circumstance, and to this
19 end the provisions of this Act are severable and the remainder shall be
20 construed in such manner as to avoid invalidity or unenforceability.

21 **Section 4. Effective Date.** This Act *shall* become effective upon
22 enactment, and *shall not* affect transactions that are currently in discussion
23 pursuant to the issuance of an officially published Invitation-For-Bid (IFB)
24 or Request-For-Proposal (RFP).