



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

JUL 02 2013


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

2013 JUL -2 PM 3:27
JWS

Dear Madame Speaker:

Transmitted herewith is Bill No.86-32 (COR) "AN ACT TO ADD A NEW §10238 TO ARTICLE 2, CHAPTER 10 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE JOSE D. LEON GUERRERO PORT AUTHORITY OF GUAM (PORT) TO WAIVE SOVEREIGN IMMUNITY TO SATISFY A PREREQUISITE FOR APPROVAL OF A TEN MILLION DOLLARS (\$10,000,000) COMMERCIAL LOAN" which I signed into law on June 28, 2013 as Public Law 32-042.

Senseramente,


EDDIE BAZA CALVO
I Maga'lahaen Guåhan
Governor of Guam

32-13-548
Office of the Speaker
Judith T. Won Pat, Ed. D.

Date 7/2/13
Time 3:25 PM
Received by Faith N

Attachment: copy of Bill

548

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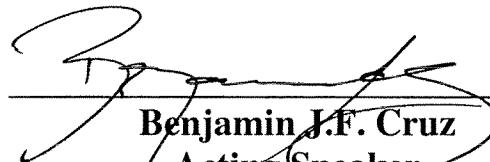


Eddie Baza Calvo


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

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

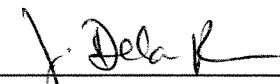
This is to certify that Substitute Bill No. 86-32 (COR), "AN ACT TO ADD A NEW §10238 TO ARTICLE 2, CHAPTER 10 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE JOSE D. LEON GUERRERO PORT AUTHORITY OF GUAM (PORT) TO WAIVE SOVEREIGN IMMUNITY TO SATISFY A PREREQUISITE FOR APPROVAL OF A TEN MILLION DOLLARS (\$10,000,000) COMMERCIAL LOAN", was on the 24th day of June, 2013, duly and regularly passed.


Benjamin J.F. Cruz
Acting Speaker


Attested:


Thomas C. Ada
Acting Legislative Secretary

This Act was received by *I Maga'lahren Guåhan* this 26th day of June,
2013, at 3:00 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


EDWARD J.B. CALVO
I Maga'lahren Guåhan

Date: JUN 28 2013

Public Law No. 32-042

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

Bill No. 86-32(COR)

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

Introduced by:

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

**AN ACT TO ADD A NEW §10238 TO ARTICLE 2,
CHAPTER 10 OF TITLE 12, GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING THE JOSE D. LEON
GUERRERO PORT AUTHORITY OF GUAM (PORT) TO
WAIVE SOVEREIGN IMMUNITY TO SATISFY A
PREREQUISITE FOR APPROVAL OF A TEN MILLION
DOLLARS (\$10,000,000) COMMERCIAL LOAN.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that on June 28, 2012, the Port Board of Directors approved the issuance of RFP

1 No. 12-014, soliciting the services of a commercial lending institution for the
2 financing of the Port's Service Life Extension (SLE) repairs on the Port's wharf,
3 and the procurement of a financial management system and a container top lifter,
4 with the total amount *not* to exceed Ten Million Dollars (\$10,000,000).

5 *I Liheslatura* further finds that on September 14, 2012, GEDA issued RFP
6 No. 12-014 and received three responses to the proposal. The Bank of Guam was
7 given the highest rating amongst the bidders. On October 26, 2012, the negotiation
8 team initially met with the Bank of Guam for the negotiation of terms and
9 conditions. On November 6, 2012, GEDA awarded the Bank of Guam as the
10 financial institution to provide the services.

11 *I Liheslatura* further finds that on January 22, 2013, the Bank of Guam
12 informed the Port that a prerequisite for the closing of the loan was for the Port to
13 waive its immunity from any suit or action in contract on any indebtedness
14 authorized by Article 2 of Chapter 10, Title 12 of the Guam Code Annotated.

15 *I Liheslatura* finds that the Port's Board of Directors approved Resolution
16 No. 2013-02 to waive the Port's immunity as a condition of the SLE loan, and
17 accepted the commitment terms by the Bank of Guam, dated February 15, 2013.

18 *I Liheslatura* finds that the Port's General Manager transmitted a
19 memorandum to the Chairperson of the Committee on Public Safety, Infrastructure
20 and Maritime Transportation, requesting consideration for proposed legislation as
21 found in Section 2 of this Act, relative to waiving sovereign immunity as a
22 condition of the SLE Loan, dated April 5, 2013.

23 **Section 2.** A new §10238 is *added* to Article 2 of Chapter 10, Title 12 of
24 the Guam Code Annotated, to read as follows:

25 **“§ 10238. Sovereign Immunity Waived.**

26 Notwithstanding any substantive or procedural provision of
27 Chapter 6 of Title 5, Guam Code Annotated, the Authority *shall not*

1 be entitled to immunity from any suit or action in contract on any
2 indebtedness authorized by this Article. For the purposes of this
3 Article only, immunity is waived as to the award of attorney fees in
4 connection with any suit brought to enforce any right or obligation
5 given under this Article, or in connection with the enforcement of the
6 terms of any agreement or indenture that arises directly from the
7 issuance of bonds or indebtedness authorized under this Article.

8 Should any suit or action arise or be initiated to enforce any of
9 the terms of any agreement, indenture, or pledge of revenues,
10 concerning the indebtedness authorized under this Article, any
11 judgment therein *shall* be paid solely from the revenues of the
12 Authority, and at no time shall any other property be subject to
13 foreclosure or recourse to satisfy any suit or action authorized by this
14 Article or judgment therein.”

15 **Section 3. Severability.** If any of the provisions of this law or its
16 application to any person or circumstance is found to be invalid or contrary to law,
17 such invalidity *shall not* affect other provisions or applications of this law which
18 can be given effect without the invalid provisions or application, and to this end the
19 provisions of this law are severable.