



EDDIE BAZA CALVO  
Governor

RAY TENORIO  
Lieutenant Governor

*Office of the Governor of Guam.*

OCT 16 2014

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

32-14-2130  
Office of the Speaker  
Judith T. Won Pat, Ed.D

Date: 10-16-14  
Time: 11:40 am  
Received By: [Signature]

Dear Madame Speaker:

Attached is Bill No. 362-32 (COR), entitled, ***"An Act to Add a New § 24109, and to Amend §§ 24204 and 24112, all of Chapter 24, Title 11, Guam Code Annotated, Relative to Extending the Deadline for Real Property Tax (RPT) Exemptions. . ."*** which I have **VETOED**.

Section 5 of Bill 362 is troubling because it seeks to reduce the current statute of limitations for the collection of tax liens from 30 years to 10 years without any consideration of the fiscal and equitable ramifications, both of which are substantial.

Under Guam law [5 G.C.A. § 22405(l)], it is mandated that all real property tax revenues be deposited into the Territorial Educational Facilities Fund (TEFF). If Bill 362 were to become law in its current form, then literally overnight, 20 years' worth of real property tax receivables, or *approximately \$22.5 million*, would be wiped off the books and become legally uncollectable. It cannot be forgotten that one of the purposes of the TEFF is to construct and refurbish Guam's educational facilities. We should be doing everything possible to support and prioritize our schools, and an instant write-off of \$22.5 million is a staggering loss that our community simply cannot afford to bear.

Further troubling about Bill 362 is that it excuses property owners who have not paid their real property taxes for decades, while failing to consider others who have arranged in good faith to take care of their obligations. By cancelling tax liens older than 10 years even if the property owners have not paid anything towards the liens, Bill 362 is deeply unfair to a number of property owners who have recently paid, or who are currently making payments on, similar liens that are likewise older than 10 years. In short, erasing 20 years and \$22.5 million of real property liens has the effect of rewarding tax delinquency at the expense of our schools and those who honor their civic obligations.

2130

2014 OCT 16 AM 11:50 [Signature]

Of the \$22.5 million in real property taxes owed for the 20-year period between 1984 to 2003, approximately \$10.5 million of that amount is for the actual delinquent taxes, and the remaining \$12 million is for penalties and interest. Understanding this fact, as well as the intent of the bill, I propose that a new bill be drafted and introduced to have the proposed 10-year limit on tax liens be prospectively, not retroactively, applied. If introduced, I will instruct DRT to implement an amnesty program for people who will come in to settle outstanding tax liabilities by waiving penalties and interests for real property taxes that are more than 10 years delinquent. Such an approach would not only be more equitable, it would generate an immediate infusion of available cash, and preserve millions in tax revenues for our education facilities. I will ask the Director of DRT to even consider allowing those who do come in to settle their outstanding taxes to pay these taxes off in installments, thus further alleviating the immediate burden of decades worth of unpaid taxes

I hope that the Legislature will consider the proposal made above and reintroduce Bill 362 with the changes suggested. Relieving the financial burden on taxpayers while guaranteeing that our educational facilities continue to be funded is a goal that is fair, achievable, and in the best interests of the People.

*Senseramente,*



EDDIE BAZA CALVO



**I MINA 'TRENTAI DOS NA LIHESLATURAN GUÅHAN**  
**2014 (SECOND) Regular Session**

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

This is to certify that **Substitute Bill No. 362-32 (COR)**, "AN ACT TO ADD A NEW § 24109, AND TO AMEND §§ 24204 AND 24112, ALL OF CHAPTER 24, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE DEADLINE FOR REAL PROPERTY TAX (RPT) EXEMPTIONS, TO AUTHORIZING THE USE OF THE TAXPAYER IDENTIFICATION NUMBER FOR RPT, AND TO REDUCING THE STATUTE OF LIMITATIONS ON THE COLLECTION OF RPT; AND RELATIVE TO THE PROMULGATION OF RULES AND REGULATIONS FOR TAX SOLD PROPERTY," was on the 3<sup>rd</sup> day of October, 2014, 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 6 day of Oct,  
2014, at 6:32 o'clock P.M.

APPROVED:

  
**EDWARD J.B. CALVO**  
*I Maga'lahaen Guåhan*  
**Assistant Staff Officer**  
*Maga'lahaen's Office*

Date: OCT 16 2014  
Public Law No. \_\_\_\_\_

**I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN**  
**2014 (SECOND) Regular Session**

**Bill No. 362-32 (COR)**

As substituted by the Committee on Aviation,  
Ground Transportation, Regulatory Concerns,  
and Future Generations; and amended on the Floor.

Introduced by:

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

**AN ACT TO ADD A NEW § 24109, AND TO AMEND §§ 24204 AND 24112, ALL OF CHAPTER 24, TITLE 11, GUAM CODE ANNOTATED, RELATIVE TO EXTENDING THE DEADLINE FOR REAL PROPERTY TAX (RPT) EXEMPTIONS, TO AUTHORIZING THE USE OF THE TAXPAYER IDENTIFICATION NUMBER FOR RPT, AND TO REDUCING THE STATUTE OF LIMITATIONS ON THE COLLECTION OF RPT; AND RELATIVE TO THE PROMULGATION OF RULES AND REGULATIONS FOR TAX SOLD PROPERTY.**

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

2 **Section 1. Short Title.** This Act *shall* be referred to as the “Responsible  
3 Real Property Taxpayer Relief Act.”

4 **Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
5 that the Department of Revenue and Taxation is currently working toward

1 completing the real property tax assessment, which will update the tax valuation of  
2 real property on Guam.

3 *I Liheslatura* further finds that Guam's real property tax has tax exemptions  
4 for senior citizens and citizens with disabilities, and that once these exemptions are  
5 claimed, the valuations of such properties are fixed by law at the amount assessed  
6 in its first year of eligibility until such citizen either passes away or no longer owns  
7 and resides in the property.

8 *I Liheslatura* thus finds that if such senior citizen or citizen with a disability  
9 has not claimed such exemption, that single omission could result in a permanently  
10 higher valuation of record, contrary to the intent of the law.

11 *I Liheslatura* finds that, under Title 11 GCA § 24114, the Department of  
12 Revenue and Taxation is required to inform citizens who may qualify for these  
13 exemptions and reduced tax rates of their eligibility, and to provide written public  
14 notice of these exemptions at least annually in a newspaper and in the Mayors'  
15 offices. Despite this requirement, many qualified individuals may not have met the  
16 deadline of March 15, 2014, and thus may not fully avail of the existing  
17 exemptions prior to updated property valuations.

18 It is, therefore, the intent of *I Liheslaturan Guåhan* that senior citizens and  
19 citizens with a disability who qualify for tax relief under Title 11 GCA §§ 24110  
20 and 24112, respectively, be provided with an extended deadline before which such  
21 citizen may apply for tax relief and set the valuation of their respective properties  
22 pursuant to Title 11 GCA § 24113 at the valuations set prior to the property  
23 revaluation.

24 *I Liheslaturan Guåhan* further finds that there are several other tax  
25 exemptions in Title 11 GCA §§ 24401 and 24402, respectively, including the  
26 farming and home exemption, which help to relieve farmers and homeowners of at

1 least a portion of their real property tax liability. The people of Guam must be  
2 afforded a fair opportunity to avail of these exemptions as well.

3 *I Liheslatura* finds that the Department of Revenue and Taxation makes use  
4 of the Taxpayer Identification Number (TIN), which is assigned to an individual by  
5 the Internal Revenue Service or the Social Security Administration, for internal  
6 purposes to make collections more efficient.

7 *I Liheslatura* finds that there have been reports that individuals on Guam  
8 have received tax refunds, yet found that the Department of Revenue and Taxation  
9 claims that they owe the government of Guam for the real property tax. The  
10 individual taxpayer would be better served by a system where the Department  
11 would be able to collect when there is money available, in the form of a tax refund  
12 identified through a respective property taxpayer's TIN. Furthermore, the use of  
13 the TIN would make it easier to develop statistical reports that could compare the  
14 characteristics of real property taxpayers to adjusted gross income, or other  
15 statistical information which can be retrieved through the use of the TIN.

16 It is, therefore, the intent of *I Liheslaturan Guåhan* that real property  
17 taxpayers be required to report their Taxpayer Identification Number to the  
18 Department for internal use.

19 *I Liheslatura* further finds that the thirty (30) year statute of limitations of  
20 Guam's real property tax may impose an undue burden on taxpayers because it  
21 would be difficult for a taxpayer to prove that a tax had been duly paid up to thirty  
22 (30) years prior. Further, if the tax record from up to thirty (30) years ago is in  
23 error, and the taxpayer does not have records, then it would be an injustice to make  
24 a taxpayer bear the burden of the government's mistake. Such errors would be  
25 further exacerbated if TINs are used to erroneously garnish refunds rightfully  
26 owed, against property tax assessment mistakes. It is overly burdensome on the

1 individual taxpayer to expect that property tax records shall be maintained for  
2 thirty (30) years.

3 Therefore, it is the intent of *I Liheslatura* to reduce the statute of limitations  
4 on the real property tax to ten (10) years, which is consistent with other taxes  
5 administered by the Department of Revenue and Taxation, pursuant to the Internal  
6 Revenue Code, so that any tax garnishment errors resulting from the use of the  
7 Taxpayer Identification Number for the real property tax will be reduced.

8 **Section 3. Real Property Tax Exemption Filing Deadline Extension.**

9 Notwithstanding any other provision of law, rule, or regulation to the contrary,  
10 residents of Guam who qualify for reduced tax rates pursuant to Title 11 GCA §§  
11 24110, 24112, 24401, and 24402 as of March 15, 2014, and who have not already  
12 availed themselves of permanent exemptions, may file with the assessor's office on  
13 or before December 31, 2014. Any application for reduced tax rates filed after  
14 March 15, 2013, and on or before December 31, 2014 pursuant to the provisions  
15 affected by this Section, *shall* be effective as though it were filed on or before the  
16 March 15, 2013, with respect to both the rates of tax provided under Title 11 GCA  
17 § 24110 or § 24112, as applicable, and the fixed level of the valuation of the  
18 applicant's residential property pursuant to Title 11 GCA § 24113, for U.S. citizens  
19 who qualify under Title 11 GCA §§ 24110 and 24112.

20 **Section 4.** A new § 24109, Article 1, Chapter 24, Title 11, Guam Code  
21 Annotated, is hereby *added* to read:

22 **“§ 24109. Failure to Supply Identifying Number.**

23 Every person required to pay property taxes *shall* provide his taxpayer  
24 identification number to the Department. *If* any person fails to comply with  
25 such requirement, such person *shall*, unless it is shown that such failure is  
26 due to reasonable cause and not to willful neglect, pay a penalty of One  
27 Hundred Dollars (\$100.00) for each failure. The Department may make use

1 of the taxpayer identification number for internal purposes only, to include,  
2 but *not* be limited to, the assessment and collection of taxes.”

3 **Section 5. Removal of the Real Property Tax Lien.** § 24204 of Article  
4 2, Chapter 24, Title 11, Guam Code Annotated, hereby *amended* to read:

5 “§ 24204. **Same: Removal.**

6 After ten (10) years succeeding the time, heretofore or hereafter, when  
7 any tax becomes a lien, if the lien has *not* been otherwise removed, then the  
8 lien ceases to exist and the tax is conclusively presumed to have been paid.  
9 The tax collector *shall* mark the tax paid in the records.”

10 **Section 6. Effect upon Enactment: Payments Made Prior to**  
11 **Enactment for Liens Ten (10) Years or Older.** No payment made prior to the  
12 date of enactment of this Act to the government of Guam shall be held invalid due  
13 to the provisions of Section 5 of this Act.

14 **Section 7. Extended Administrative Timeline.** Notwithstanding any  
15 other provision of law to the contrary, for the 2014 Real Property Tax Year *only*,  
16 the Preliminary Assessment Roll *shall* be issued on or before February 2, 2015,  
17 appeals may be filed from February 16, 2015 to March 16, 2015, the Board of  
18 Equalization *shall* certify the 2014 Assessment Roll on or before March 31, 2015,  
19 the first installment of taxes *shall* be paid on or before April 20, 2015, the second  
20 installment of taxes *shall* be paid on or before May 20, 2015, any late payment  
21 *shall* be subject to the penalties under §§ 24701 and 24702 of Chapter 24, Title 11,  
22 Guam Code Annotated, and the publication of the delinquent list pursuant to §§  
23 24801 and 24802 of Chapter 24, Title 11, Guam Code Annotated, *shall* be on or  
24 before June 8, 2015.

25 **Section 8. Public Notice of the Extension of Exemptions Filing**  
26 **Deadline.** The Department of Revenue and Taxation *shall* publish notice of the  
27 extended filing deadline for the exemptions pursuant to Section 3 of this Act *not*



1 *later than* fifteen (15) days following the enactment of this Act in a newspaper of  
2 general circulation, and post a copy of such notice at each Mayor's office.

3 **Section 9.** Any rules and regulations promulgated by the Director of the  
4 Department of Revenue and Taxation governing the process of the sale of tax sold  
5 property by operation of law *shall* be promulgated pursuant to the Administrative  
6 Adjudication Law.

7 **Section 10. Severability.** *If* any provision of this Act or its application to  
8 any person or circumstance is found to be invalid or contrary to law, such  
9 invalidity *shall not* affect other provisions or applications of this Act which can be  
10 given effect without the invalid provisions or application, and to this end the  
11 provisions of this Act are severable.