

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

32-14-2150
Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 10-17-14
Time: 4:19pm
Received By: [Signature]

2014 OCT 17 PM 4:55
FANON

Dear Madame Speaker:

Transmitted herewith is Bill No. 388-32 (LS) "AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF TAX CREDITS FOR CONTRIBUTORS TO THE RENOVATION AND EXPANSION OF THE TIYAN GYMNASIUM," which I signed into law on October 13, 2014 as Public Law 32-202.

Senseramente,

EDDIE BAZA CALVO

2150

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

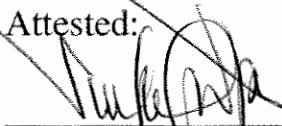
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Bill No. 388-32 (LS)**, "AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77, DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF TAX CREDITS FOR CONTRIBUTORS TO THE RENOVATION AND EXPANSION OF THE *TIYAN* GYMNASIUM," was on the 3rd 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'lahen Guåhan* this 6 day of OCT, 2014, at 6:32 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: OCT 13 2014
Public Law No. 32-202

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

Bill No. 388-32 (LS)

As amended on the Floor.

Introduced by:

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

**AN ACT TO ADD A NEW ARTICLE 6 TO CHAPTER 77,
DIVISION 2, TITLE 12, GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING THE ISSUANCE OF
TAX CREDITS FOR CONTRIBUTORS TO THE
RENOVATION AND EXPANSION OF THE TIYAN
GYMNASIUM.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that a Memorandum of Understanding between the Guam Department of Parks and
4 Recreation, with the concurrence of the Office of the Attorney General and
5 approval by *I Maga'lahaen Guåhan*, and the Guam Basketball Confederation was
6 entered into in November 2013. *I Liheslaturan Guåhan* further finds that the
7 Department of Parks of Recreation currently *does not* have the resources to

1 renovate and reopen the *Tiyan* Gymnasium. Because of this, *I Liheslaturan*
2 *Guåhan* finds that the public-private partnership with the Guam Basketball
3 Confederation presents an opportunity for the renovation and expansion of the
4 *Tiyan* Gymnasium and facilities for use by the community.

5 *I Liheslaturan Guåhan* further finds that partnerships such as these have the
6 potential to spawn new programs aimed at the health and wellness of our
7 community, especially our youth. Based on the commitments of the Guam
8 Basketball Confederation and the cooperation of the Department of Parks and
9 Recreation, there is immense potential for the comprehensive rehabilitation of the
10 *Tiyan* Gymnasium. Based on the success of this proposed tax credit program, *I*
11 *Liheslaturan Guåhan* sees the potential for additional tax credit programs that can
12 provide a responsible avenue for the construction of new facilities, and the
13 rehabilitation of sports and recreation facilities island wide, most especially in the
14 southern villages, such as *Agat*, *Umatac* and *Merizo*, and other villages that
15 currently lack facilities.

16 Therefore, it is the intent of *I Liheslaturan Guåhan* to establish a controlled
17 plan that authorizes the issuance of unpledged business privilege tax credits for
18 contributors to the renovation and expansion of the *Tiyan* Gymnasium and
19 facilities by adding a new Article 6 to Chapter 77, Division 2 of Title 12, Guam
20 Code Annotated.

21 **Section 2.** A new Article 6 is hereby *added* to Chapter 77, Division 2,
22 Title 12, Guam Code Annotated, to read:

23 **“ARTICLE 6**

24 **TAX CREDITS FOR THE TIYAN GYMNASIUM**

25 § 77601. Credit Against Eligible Taxes.

26 § 77602. Limits of Liability.

27 § 77603. Fines and Penalties.

1 § 77604. Cap on Business Privilege Tax Credits for the
2 Rehabilitation and Improvement of the *Tiyan*
3 Gymnasium and Facilities.

4 § 77605. Public Access to *Tiyan* Gymnasium and Facilities.

5 § 77606. Filing of Annual Reports.

6 § 77607. GEDA Report.

7 § 77608. Rules and Regulations.

8 § 77609. Licensing Agreement for *Tiyan* Gymnasium to Guam
9 Basketball Confederation.

10 § 77610. Ancestral Lands.

11 **§ 77601. Credit Against Eligible Taxes.**

12 (a) To the extent that any business contributes the actual cost
13 of design, labor and materials that are for the rehabilitation and
14 improvement of the Department of Parks and Recreation (DPR) *Tiyan*
15 Gymnasium and facilities, it *shall* be entitled to credit of business
16 privilege taxes that are *not* already pledged for any purpose by Guam
17 law. The basis for contribution to the project *shall* be the actual cost of
18 the contribution plus the cost of transportation from the point of origin
19 to its destination.

20 (b) Any unused credits *not* used in the current tax period
21 may be carried over into subsequent tax periods until such credits are
22 exhausted.

23 (c) The total credits allowed under this Act *shall not* exceed
24 the actual dollar amount of the expenditures on the project.

25 **§ 77602. Limits of Liability.**

26 Unless a contractor, materials supplier, designer or
27 landlord/lessor has direct involvement in the operations of the *Tiyan*

1 Gymnasium and facilities as a director, officer, manager, employee,
2 representative or agent of the Guam Basketball Confederation, they
3 *shall not* be held liable for any civil or criminal damages or penalties
4 directly or indirectly arising from or related to the operations, any use,
5 or possession of the gymnasium and facilities, *unless* it can be proven
6 that the materials or design work provided were substandard. As the
7 *Tiyan* Gymnasium and facilities is a private venture operated by the
8 Guam Basketball Confederation, the government of Guam *shall not*
9 be liable for any claims or damages arising from the operation of the
10 gymnasium and facilities. The Guam Basketball Confederation, its
11 directors, agents, consultants, employees, or other affiliated person or
12 persons shall make no representation that the government of Guam
13 has any interest in the operation of such gymnasium and facilities.

14 **§ 77603. Fines and Penalties.**

15 To the extent that a company providing materials and services
16 for the project contained herein takes more tax benefits in terms of
17 business privilege taxes than the actual value of the materials or
18 services contributed to the project authorized herein, that company
19 *shall* be required to pay all interest and penalties applicable under
20 Guam law and the Internal Revenue Code for failure to pay taxes, in
21 addition to payment of the actual taxes due. To the extent that any
22 individual, officer, director or other person having interest in a
23 company providing materials or services for the project contained
24 herein knowingly and willingly causes such company to take more tax
25 benefits in terms of business privilege taxes than the actual value of
26 the material or services contributed to the project, such individual
27 *shall* be guilty of a felony in the third degree punishable by a fine of

1 *not less than* Five Thousand Dollars (\$5,000), or one (1) year in
2 prison, or both.

3 **§ 77604. Cap on Business Privilege Tax Credits for**
4 **Rehabilitation and Improvement of the *Tiyan* Gymnasium and**
5 **Facilities.**

6 (a) The total amount of credits against unpledged business
7 privilege taxes for the rehabilitation and improvement of the *Tiyan*
8 Gymnasium and facilities authorized herein *shall not* exceed Two
9 Million Five Hundred Thousand Dollars (\$2,500,000) over a ten (10)
10 year period. No more than Two Hundred Fifty Thousand Dollars
11 (\$250,000) in tax credits shall be authorized for each year of the
12 program.

13 (b) If, at the expiration of the ten (10) year period authorized
14 pursuant to this Article, there are still unclaimed authorized tax
15 credits, *I Liheslaturan Guåhan* may, in its discretion, extend the
16 eligible period until such time that all eligible tax credits are
17 exhausted.

18 (c) *I Liheslaturan Guåhan* may, in its discretion, extend the
19 term and modify any part of the program based on future
20 improvement plans and demand for such facilities in this location.

21 (d) Construction and professional services and equipment
22 and materials *shall* be competitively procured.

23 **§ 77605. Public Access to *Tiyan* Gymnasium and Facilities.**

24 As a condition for the Guam Basketball Confederation and its
25 contributors to be entitled to the tax benefits of the program
26 established in this Article, the gymnasium and facilities must be
27 available to the general public in accordance with the Memorandum

1 of Understanding with the Department of Parks and Recreation
2 governing the use of the property. The Memorandum of
3 Understanding *shall* incorporate provisions that support opportunities
4 for access to the gymnasium and facilities by individuals with
5 disabilities.

6 **§ 77606. Filing of Annual Reports.**

7 (a) The Guam Basketball Confederation *shall* annually
8 submit a copy of the financial statement required in § 14102, Chapter
9 14 of Title 18 GCA to the Speaker of *I Liheslaturan Guåhan*, the
10 Public Auditor, and the Administrator of GEDA.

11 (b) The Guam Basketball Confederation must ensure that it
12 is current with all its articles and by-laws, and should there be any
13 amendments to such documents, it should immediately file such
14 amendments to the Department of Revenue and Taxation.

15 **§ 77607. GEDA Report.**

16 GEDA *shall* submit a report to *I Liheslaturan Guåhan* detailing
17 the impact of the program on the business privilege taxes, sports, and
18 economic activities on Guam. GEDA *shall* also include in its report its
19 monitoring efforts and any other information related to the program.
20 The report shall be transmitted to *I Liheslaturan Guåhan* on an annual
21 basis until the tax credit cap pursuant to §77604 of this Article is
22 exhausted.

23 **§ 77608. Rules and Regulations.**

24 The Guam Economic Development Authority *shall* implement
25 and monitor the tax credit program authorized pursuant to this Article
26 based on rules and regulations already adopted by GEDA for previous
27 tax credit programs.

1 **§ 77609. Licensing Agreement for *Tiyan* Gymnasium to Guam**
2 **Basketball Confederation.**

3 The Department of Parks and Recreation and the Guam
4 Basketball Confederation *shall* enter into a license agreement for the
5 improvement, rehabilitation and maintenance of the *Tiyan*
6 Gymnasium for a period of ten (10) years, in accordance with the
7 provisions of the Memorandum of Understanding entered into by the
8 Guam Basketball Confederation and the Department of Parks and
9 Recreation on November 21, 2013. If at any time the Guam
10 Basketball Confederation *does not* comply with any provision of the
11 Memorandum of Understanding, the license *shall* be null and void,
12 and management of the property *shall* revert solely to the Department
13 of Parks and Recreation.

14 **§ 77610. Ancestral Lands.** Nothing in this Article shall prevent
15 the return of ancestral lands upon such time that such ownership is fully
16 reconciled.”

17 **Section 3. Effective Date.** This Act *shall* be effective upon enactment.

18 **Section 4. Severability.** *If* any provision of this Law or its application to
19 any person or circumstance is found to be invalid or contrary to law, such
20 invalidity *shall not* affect other provisions or applications of this Law which can be
21 given effect without the invalid provisions or application, and to this end the
22 provisions of this Law are severable.