

SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 591, "An Act to repeal Chapter I of Title LVI of the Government Code relative to the Hotel Development Corporation and authorizing the Guam Economic Development Authority to take certain actions to promote hotel development", was on the 16th of April 1982, duly and regularly passed.



THOMAS V. C. TANAKA
Speaker

ATTESTED:



THOMAS C. CRISOSTOMO
Legislative Secretary

This Act was received by the Governor this 7th day of May, 1982, at 4:40 o'clock P M.



SHERRA L. FRANCISCO
Assistant Staff Officer
Governor's Office

APPROVED:



PAUL M. CALVO
Governor of Guam

DATED:

5/14/82

P.L. 16-87

SIXTEENTH GUAM LEGISLATURE
1982 (SECOND) Regular Session

Bill No. 591
(As Substituted)

Introduced by: E. S. Moylan, A. R. Unpingco, F. F. Blas

J. Q. Torres

AN ACT TO REPEAL CHAPTER I OF TITLE LVI OF THE
GOVERNMENT CODE RELATIVE TO THE HOTEL DEVELOP-
MENT CORPORATION AND AUTHORIZING THE GUAM
ECONOMIC DEVELOPMENT AUTHORITY TO TAKE CERTAIN
ACTIONS TO PROMOTE HOTEL DEVELOPMENT.

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

2 Section 1. Chapter I of Title LVI of the Government Code
3 is repealed.

4 Section 2. A new Chapter V is added to Title LIV of the
5 Government Code to read:

6 "CHAPTER V

7 Hotel Development

8 Section 53609. Legislative Finding. Adequate hotel
9 accommodations, with related facilities and services, are
10 essential to the sound development of Guam's economy and
11 particularly to the continued growth of Guam's tourist
12 industry. The enhancement of the tourist industry by pro-
13 viding more hotel accommodations with related facilities
14 and services will create more jobs to aid Guam's ailing
15 job market. The provision of such accommodations, facili-
16 ties and services is declared to be a public purpose.

17 Section 53609.1. The corporation shall promote the
18 construction and operation of new hotels and the expansion
19 of existing hotels, with incidental and related facilities
20 for the adequate accommodation of tourists and other visitors
21 in Guam.

1 Section 53609.2. Except as otherwise provided by law,
2 the corporation is authorized and empowered to do all things
3 necessary or appropriate to carry out the purposes of this
4 Chapter. It is expressly authorized:

5 (a) To establish a Hotel Development Fund and to
6 deposit the fund in a bank licensed to do business in the
7 territory of Guam. The Hotel Development Fund shall at all
8 times be held and administered separate and apart from other
9 government of Guam funds. The Hotel Development Fund shall
10 be subject to audit by the Territorial Auditor or his suc-
11 cessor and to such other audits as may be from time to time
12 authorized by the Board. The Board shall submit a report
13 to the Governor and the Legislature, at least annually,
14 setting forth the financial position of the Hotel Develop-
15 ment Fund and a description of the accomplishments of the
16 corporation in respect to this Chapter;

17 (b) To collect and disseminate information concerning
18 Guam's tourist industry and the financial incentives offered
19 by the government of Guam for the development, operation,
20 and ownership of hotels and related facilities and services
21 in the territory of Guam;

22 (c) To assist persons interested in building or
23 expanding hotels and related facilities and services in Guam
24 in obtaining information from and coordinating with govern-
25 ment of Guam Agencies, Public Corporations and Federal Agen-
26 cies represented in Guam;

27 (d) To assist those persons interested in building
28 or expanding hotels and related facilities in the territory
29 of Guam in obtaining financing, by maintaining and dissemi-
30 nating information regarding financing available through
31 private and public sources;

1 (e) To provide administrative and financial assistance,
2 on such terms and upon such conditions as the Board may
3 determine with respect to the preparation of feasibility
4 studies relating to specific proposals for the development
5 or expansion of hotels and related facilities in Guam;

6 (f) With the prior consent of the Legislature by
7 resolution, may lease government-owned land at less than
8 fair market value or sell land acquired by the corporation
9 to persons for the development and operation of new hotels
10 and related facilities, or for the expansion of existing
11 hotels and related facilities. The provisions of the
12 Chamorro Land Trust Act (Chapter VI, Title XIV of the
13 Government Code) shall not be applicable to transactions
14 authorized by this Section;

15 (g) To prepare or have prepared assessment of the
16 infrastructure facilities or services required for the
17 construction and support of additional hotels, expansion of
18 existing hotels, and the construction and use of related
19 facilities;

20 (h) To expend, on such terms and upon such conditions
21 as it shall determine, such part of its funds as may then
22 be uncommitted to pay for in whole or in part, additional
23 infrastructure facilities or services which it has deter-
24 mined pursuant to Subsection (g) of this Section to be
25 necessary for the accomplishment of its purposes;

26 (i) To the extent of uncommitted funds on deposit with
27 the Hotel Development Fund, upon such terms and conditions
28 as the Board may determine, to subsidize the cost of the
29 construction of new hotels and related facilities, or the
30 expansion of existing hotels and related facilities, through
31 outright cash grants or by other means approved by the
32 Board, provided:

1 (1) That the subsidy may not in any case exceed ten
2 percent (10%) of the cost of development of any qualifying
3 facility; and

4 (2) That the amount and terms of the subsidy are
5 approved by the Legislature. The approval of the Legisla-
6 ture shall be manifested by the adoption of a resolution
7 approving the transaction, or by a failure of the Legisla-
8 ture to adopt a resolution of disapproval within the forty-
9 five (45) calendar days after it has received a written
10 request for approval from the Board.

11 The lease or sale of property by the corporation to pri-
12 vate persons for the development and operation of hotels and
13 related facilities, or for the expansion of hotels and
14 related facilities at less than fair market value shall not
15 be considered a subsidy for the purpose of applying the
16 limitation imposed under this Section; and

17 (j) To make loans and to guarantee loans, only if it
18 finds that there are no practical alternate sources of
19 financing available. The corporation may charge a fee, in
20 addition to interest on any loan which it makes or guaran-
21 tees. The fee shall not exceed two percent (2%) of the
22 amount of the loan. The fee shall be used by the corpora-
23 tion to carry out the purposes of this Chapter. No loan made
24 or guaranteed by the corporation shall be assigned or other-
25 wise transferred, directly or indirectly, without the consent
26 of the corporation.

27 Section 53609.3. Upon request by the Board, the Gover-
28 nor, with the consent of the Legislature, may convey in fee
29 simple tracts of government-owned land suitable for develop-
30 ment of tourist facilities in accordance with this Chapter.

1 If the government does not own tracts suitable for such
2 purposes, the Governor may negotiate with private landowners
3 for the acquisition of suitable property, provided, that
4 funds have been appropriated for such acquisition.

5 Section 53609.4. There is authorized to be appropri-
6 ated to the corporation, from time to time, such sums as may
7 be necessary to enable the corporation to accomplish the
8 purpose of this Chapter.

9 Section 53609.5. The corporation may receive donations
10 of money which shall be expended to carry out the purposes
11 of this Chapter. Donors incurring a tax obligation to the
12 government of Guam under the Gross Receipts Tax (Subchapter
13 B of Chapter VI of Title XX of the Government Code) or an
14 income tax obligation to the government of Guam under the
15 Guam Territorial Income Tax Law, at the donor's option and
16 in lieu of the deduction provided for such a contribution
17 by the Guam Territorial Income Tax Law, may receive a credit
18 for the amount of money donated to the corporation for the
19 fiscal year of the donor during which the money is donated;
20 provided, however, that the credit shall not exceed ten
21 percent (10%) of the donor's total tax obligation to the
22 government of Guam under Subchapters B and C of the Business
23 Privilege Tax Law for the donor's fiscal year in which the
24 donation is made. If the amount of money donated exceeds
25 the credit allowed against the taxes imposed under Sub-
26 chapters B and C of the Business Privilege Tax Law (Chapter
27 VI of Title XX of the Government Code) for the donor's
28 fiscal year in which the donation is made, then the excess
29 may be deducted with respect to the donor's income tax
30 obligations to the government of Guam under the Guam Terri-
31 torial Income Tax Law, subject to the limitations imposed
32 generally with respect to deductions for such contributions.

1 In order to receive the credit authorized by this Section,
2 the donor must claim the credit in a manner established
3 by the Department of Revenue and Taxation, not later than
4 ninety (90) days following the end of the donor's fiscal
5 year in which the donation was made.

6 Section 53609.6. There is appropriated to the corpo-
7 ration, to be expended by it in carrying out the purposes
8 of this Chapter, ten percent (10%) of all taxes collected
9 pursuant to Section 19650 of the Government Code (the Excise
10 Tax on Occupancy of Hotel and Similar Lodging House Facili-
11 ties) from the effective date of the provisions of this Act
12 until and including the date that this Section is repealed;
13 provided, however, that the amount appropriated hereunder
14 shall not exceed, during any one calendar year, Two Hundred
15 Thousand Dollars (\$200,000). The funds appropriated here-
16 under shall be transferred to the Hotel Development Fund
17 on a monthly basis.

18 Section 53609.7. The proceeds from any contract for
19 building materials or supplies, or for labor or supervision
20 used in the construction of any new hotel or related faci-
21 lities in Guam, or for the expansion of any existing hotel
22 and related facilities shall be exempt from the tax imposed
23 under Subchapter B of the Business Privilege Tax Law provi-
24 ded (a) the person providing the materials, supplies, labor
25 or supervision has received a certificate of exemption from
26 the corporation; and (b) the person claims the exemption
27 within one (1) year from the date that such materials, sup-
28 plies, labor or supervision is furnished. The corporation
29 shall adopt reasonable rules and regulations in accordance
30 with the Administrative Adjudication Act for the granting

1 of certificates of exemption in order to ensure that
2 certificates are issued only with respect to materials,
3 supplies, labor or supervision furnished subsequent to
4 the effective date of this Chapter and for the construction
5 or expansion of a qualifying hotel or related facility.

6 The owner of a facility constructed under a contract,
7 the proceeds from which have been exempted under this
8 Section from the tax imposed under Subchapter B of the
9 Business Privilege Tax Law, shall be exempted from the Use
10 Tax Law with respect to the property used to construct,
11 furnish, and equip the facility.

12 Section 53609.8. The Board shall exercise its powers
13 with respect to this Chapter so as to promote the construc-
14 tion of new hotels and the expansion of existing hotels,
15 and the construction of related facilities in an orderly
16 manner and with due regard being given to the profitability
17 of existing hotels. In this connection, the Board may hold
18 such hearings, accept such information, and otherwise pro-
19 ceed as it shall in its sole discretion determine in
20 deciding whether and to what extent it should promote addi-
21 tional development within any given period of time. It
22 shall not be necessary for the Board to conduct such pro-
23 ceedings in accordance with the Administrative Adjudication
24 Act or the Open Government Law, and its decision shall in
25 all cases be final and shall not be subject to review by
26 any authority."

27 Section 3. A new Subsection (f) is added to Section 53701
28 of the Government Code to read:

29 "(f) Hotel owners who receive a loan guarantee pur-
30 suant to this Chapter shall agree as a condition of the
31 guarantee that no less than seventy-five percent (75%) of

1 its total personnel shall be persons who are United States
2 citizens or permanent residents residing in Guam. The hotel
3 owner may seek the assistance of the educational institutions
4 on Guam in its local recruitment efforts."

5 Section 4. (a) Sections 53609, 53609.1, 53609.2, 53609.3,
6 53609.4, 53609.5, 53609.6 and 53609.8 of the Government Code
7 shall expire May 31, 1984, unless a law is enacted causing this
8 Section to be of no effect.

9 (b) After May 31, 1984, the corporation shall not grant any
10 certificates for tax exemptions pursuant to Section 53609.7 of
11 the Government Code, but the exemptions authorized in Section
12 53609.7 of the Government Code shall remain effective until all
13 taxpayers qualifying to claim them have done so.

14 (c) Any unencumbered and unexpended balance in the Hotel
15 Development Fund on May 31, 1984 shall revert to the Tourist
16 Attraction Fund.

17 (d) The corporation shall perform all obligations lawfully
18 incurred pursuant to Chapter V of Title LIV of the Government
19 Code even if performance is required after May 31, 1984.

20 Section 5. Section 53577.2 of the Government Code is amended
21 to read:

22 "2. All taxes now levied on income derived from the
23 lease of land, buildings, machinery or equipment by virtue
24 of Subchapter B, Chapter VI, Title XX of the Government Code,
25 shall be abated for a period up to ten (10) years from date
26 of issuance of a Qualifying Certificate therefore, and as
27 long as said certificate is in force and effect, provided
28 that said income has been derived from the lease of land,
29 buildings, machinery or equipment to a tax-exempt business
30 that has qualified and continues to qualify for a Qualifying
31 Certificate."

DATE

16
4-18-82

SIXTEENTH GUAM LEGISLATURE

VOTING RECORD

S BILL/RESOLUTION NO. 591

MAIN SPONSOR

KM

SENATOR	AYE	NAY	NOT VOTING	ABSENT
BLAS, Frank F.	✓			
BORDALLO, Madeleine Z.	✓			
CHARFAUROS, Edward T.	✓			
CRISOSTOMO, Thomas C.	✓			
DUENAS, Edward R.	✓			
GUTIERREZ, Carl T. C.	OI			
KASPERBAUER, Carmen A.	✓			
LAMORENA, Alberto C., III	✓			
LEON GUERRERO, Jose I.	✓			
MOYLAN, Kurt	✓			
PEREZ, Peter F., Jr.	✓			
QUAN, John F.	✓			
QUITUGUA, Franklin J.	✓			
SAN AGUSTIN, Joe T.	✓			
SANTOS, Francisco R.	✓			
SUDO, Ramon Q.	✓			
TANAKA, Thomas V. C.	✓			
TORRES, Jess Q.	✓			
UMAGAT, Lloyd L.	✓			
UNDERWOOD, James H.	✓			
UNPINGCO, Antonio R.	✓			

TOTAL

20 0 0 1