

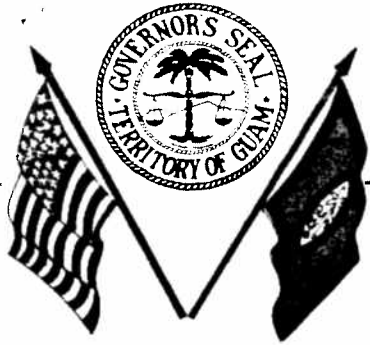
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OFFICE OF THE SPEAKER

DATE: 12/28/94

TIME: 3:45 PM

RECD BY: [Signature]



Territory of Guam
Territorio Guam

OFFICE OF THE GOVERNOR
UFISINAN I MAGA LAHI
AGANA, GUAM 96910 U.S.A.

DEC 27 1994

Legislate Seg

The Honorable Joe T. San Agustin
Speaker, Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 1227, which I have signed into law this date as
Public Law 22-144.

Sincerely yours,

[Signature]
JOSEPH F. ADA
Governor

220912

Attachment

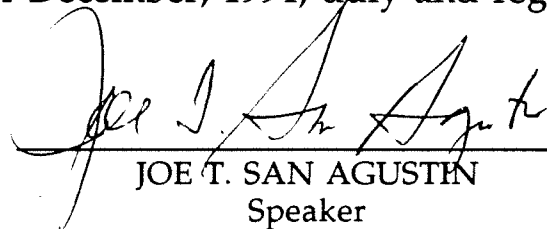


Commonwealth Now!

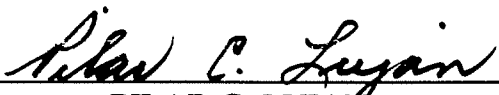
TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

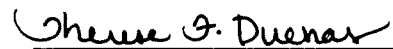
This is to certify that Bill No. 1227 (LS), "AN ACT TO AMEND §30101 OF TITLE 11, GUAM CODE ANNOTATED, ON THE HOTEL OCCUPANCY TAX; TO AMEND §2103m OF TITLE 4, GUAM CODE ANNOTATED, ON HIRING IN THE EXECUTIVE BRANCH; TO AMEND PROVISIONS IN THE BUDGET ACT AND §§4103 AND 6303 OF TITLE 4, GUAM CODE ANNOTATED, ON POSITIONS AND CONTRACTUAL SERVICES WITHIN THE OFFICE OF THE GOVERNOR; AND TO REPEAL AND REENACT §19951, ITEMS (i) AND (ii) OF PARAGRAPH (b) OF §19953 AND PARAGRAPH (b) OF §19954, ALL OF TITLE XX OF THE GOVERNMENT CODE, ON POSITIONS WITHIN THE GUAM FINANCE COMMISSION," was on the 9th day of December, 1994, duly and regularly passed.


JOE T. SAN AGUSTIN
Speaker

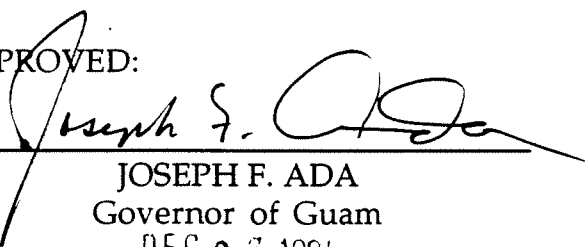
Attested:


PILAR C. LUJAN
Senator and Legislative Secretary

This Act was received by the Governor this 15th day of December, 1994, at
3:45 o'clock P.M.


Cherise G. Duenas
Assistant Staff Officer
Governor's Office

APPROVED:


JOSEPH F. ADA
Governor of Guam
DEC 27 1994

Date: _____

Public Law No. 22-144

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 1227

As substituted by the Committee on
Tourism & Transportation and as
further substituted on the floor

Introduced by:

J. P. Aguon
F. E. Santos
T. S. Nelson
T. C. Ada
E. P. Arriola
M. Z. Bordallo
H. D. Dierking
C. T. C. Gutierrez
P. C. Lujan
V. C. Pangelinan
D. Parkinson
E. D. Reyes
J. T. San Agustin
D. L. G. Shimizu
J. G. Bamba
A. C. Blaz
D. F. Brooks
F. P. Camacho
M. D. A. Manibusan
T. V. C. Tanaka
A. R. Unpingco

AN ACT TO AMEND §30101 OF TITLE 11, GUAM CODE ANNOTATED, ON THE HOTEL OCCUPANCY TAX; TO AMEND §2103m OF TITLE 4, GUAM CODE ANNOTATED, ON HIRING IN THE EXECUTIVE BRANCH; AND TO AMEND PROVISIONS IN THE BUDGET ACT AND §§4103 AND 6303 OF TITLE 4, GUAM CODE ANNOTATED, ON POSITIONS AND CONTRACTUAL SERVICES WITHIN THE OFFICE OF THE GOVERNOR; AND TO REPEAL AND REENACT §19951, ITEMS (i) AND (ii) OF PARAGRAPH (b) OF

§19953 AND PARAGRAPH (b) OF §19954, ALL OF TITLE
XX OF THE GOVERNMENT CODE, ON POSITIONS
WITHIN THE GUAM FINANCE COMMISSION.

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

2 **Section 1.** §30101 of Title 11, Guam Code Annotated, is hereby
3 amended to read:

4 **"§30101. Imposition.** An excise tax is hereby levied and
5 imposed which shall be assessed and collected monthly, against
6 transient occupants of a room or rooms in a hotel, lodging house, or
7 similar facility located in Guam according to the following schedule:

8 (a) From September 1, 1993 through March 31, 1995, the rate
9 shall be ten percent (10%) of the rental price charged or paid per
10 occupancy per day;

11 (b) From April 1, 1995 and thereafter the rate shall be eleven
12 percent (11%) of the rental price charged or paid per occupancy per
13 day.

14 If the room or rooms are rented more than once within a
15 twenty-four (24) hour period, each time of occupancy shall be subject
16 to the tax for such accommodations.

17 This tax applies and is collectible when the sale is made,
18 regardless of the time when the price is paid or delivered. It shall be
19 paid by the consumer to the operator or owner of the hotel or
20 rooming house facility."

21 **Section 2.** §2103m, Title 4, Guam Code Annotated, is amended to read:

22 **"§2103m. Employment and employment contracts; when**
23 **forbidden.** No contract of employment shall be entered into between
24 the government of Guam and any employee or officer in the

1 unclassified service within the government of Guam unless such
2 employment contract is specifically permitted by law or is for a
3 physician or dentist. Such employment shall be effected through the
4 standard form of personnel action. This Section shall not affect the
5 ability of the government of Guam to contract for temporary
6 services or for specific contracts not involving an employment
7 relationship with the government of Guam, but shall apply to a
8 contract which is essentially a contract for full-time personal
9 services; **provided**, however, that the executive branch and the
10 autonomous agencies and instrumentalities of the government of
11 Guam may contract for the independent services of any retired
12 employee of the government of Guam, who shall not receive
13 thereunder the standard government of Guam retirement benefits
14 given non-contract employees; and **provided**, further, that, in
15 addition, the executive branch and the autonomous agencies and
16 instrumentalities of the government of Guam may also hire under
17 independent contracts persons who do not wish to be full-time
18 employees (2080 hours per year) and who agree that they shall not
19 receive any of the benefits given full-time non-contractual employees
20 of the government of Guam."

21 **Section 3.** Item (e) of Section 5, contained in Section 3 of Public Law 22-
22 41, repealed and reenacted in Public Law 22-140, is amended to read:

23 "(e) Except for the Office of the Governor, 'Contractual
24 services' include:

- 25 (1) services rendered or performed by business, other
26 government agencies or individuals other than expenses
27 for personnel services;

1 (2) current services or charges for rental of personal property,
2 insurance premiums (not employee benefits), dues, paid
3 subscriptions, and other fixed charges; and"

4 **Section 4.** Subsection (i) of Section 5, contained in Section 3 of Public
5 Law 22-41, repealed and reenacted in Public Law 22-140, is amended to read:

6 "(i) Except for the Office of the Governor, 'FTE' means the
7 equivalent of one (1) permanent position continuously filled for two
8 thousand eighty (2,080) hours per year for the year commencing
9 October 1, 1994."

10 **Section 5.** §6303 of Title 4, Guam Code Annotated, is amended to read:

11 "**§6303. Creation of positions.** (a) New positions may be
12 created by the Governor, or the Presiding Judge of the Superior
13 Court for the Judicial Branch, when necessary for the efficient
14 performance of the duties and functions of the government. The
15 Governor shall submit to the Civil Service Commission, and the
16 Presiding Judge to the Judicial Council, the position descriptions for
17 the positions within thirty (30) calendar days after creation. Except
18 for positions in the Office of the Governor, the positions shall be
19 terminated unless approved by the Commission or the Judicial
20 Council, as the case may be, within ninety (90) days after submission.
21 No newly created position shall be filled in the absence of
22 appropriations to pay the salary of the proposed position.

23 (b) This section shall not apply to positions required by law to
24 be filled by persons confirmed by the Legislature.

25 (c) For the Office of the Governor, positions may also be
26 eliminated in the same manner as in subsection (a) of this Section."

1 Section 6. Subsection (e) of §4103 of Title 4, Guam Code Annotated, is
2 amended to read:

3 "(e) Except for the Office of the Governor, no person may be
4 temporarily employed in a non-professional capacity for more than
5 one hundred twenty (120) days in any calendar year except pursuant
6 to an exception provided for by paragraph (d). No person may be
7 temporarily employed in a professional capacity for more than one
8 hundred twenty (120) days except upon a contract in writing and a
9 determination in writing by the appointing authority that such
10 employment is critical to either the public health, safety, or welfare
11 of the community. For purposes of this paragraph a person is
12 employed as a professional if the person's job description in the
13 Dictionary of Occupational Titles published by the U.S. Department
14 of Labor has as its first digit zero (0) or one (1). Any person whose job
15 description does not have as its first digit zero (0) or one (1) shall be
16 deemed to be a non-professional employee."

17 Section 7. (a) §19951 of Chapter XII, Title XX of the Government Code
18 of Guam, is hereby repealed and reenacted to read:

19 "**§19951. Establishment of Guam Finance Commission.** The
20 Guam Finance Commission (the "Commission") is established, and,
21 **subject** to the provisions of §19954 of this Chapter, shall be comprised
22 of the following members:

23 (a) Six (6) voting members appointed by the Governor,
24 with the advice and consent of the Legislature. The individuals
25 so appointed shall serve on the Commission solely during such
26 period as the Governor who appointed them is in office.

1 (b) Three (3) **ex officio** voting members, consisting of the
2 Governor, the Chairperson of the Legislature's Committee on
3 Federal and Foreign Affairs, and the Chairperson of the
4 Legislature's Committee on Ways and Means.

5 (c) Five (5) **ex officio** non-voting members, consisting of
6 the Directors of Revenue and Taxation, Administration,
7 Commerce, and the Bureau of Budget and Management
8 Research, and the Administrator of the Guam Economic
9 Development Authority ("GEDA"). Such Directors and the
10 Administrator of GEDA shall serve in their own capacity as
11 members of the Commission or shall appoint instead a designee
12 from their respective departments or agency to serve. These **ex**
13 **officio** non-voting members of the Commission are to serve on
14 the Commission only as consultants, and are **not** entitled to vote
15 on any matter whatsoever.

16 With the exception of the Governor, any member of the
17 Commission may be dismissed for cause, approved by a majority
18 vote of the members. The Governor shall be Chairman of the
19 Commission, and the Vice Chairman shall be selected by the
20 members. The Chairman shall designate such other officers as are
21 necessary to conduct the Commission's business, and shall have sole
22 authority to hire and fire staff members and employees of the
23 Commission. The Commission shall draft and implement operating
24 procedures for the conduct of its business, which procedures are
25 exempt from the provisions of the Administrative Adjudication
26 Law."

1 (b) Item (i) of paragraph (b) of §19953 of Chapter XII, Title XX of the
2 Government Code of Guam, is hereby repealed and reenacted to read:

3 "(i) develop a specific blueprint for consolidation of
4 government financial information as a basis for management of a
5 central Policy Information System, to be administered by a Special
6 Accounting Service. The Special Accounting Service shall be under
7 the direct control and authority of the Guam Finance Commission,
8 and shall be comprised of the Controller of the Department of
9 Administration, the Chief of Taxpayer Services Administration of
10 the Department of Revenue and Taxation, the Budget Analyst
11 Supervisor of the Bureau of Budget and Management Research, a
12 designee of the Chairperson of the Legislature's Committee on Ways
13 and Means, and consulting accountants as required for system
14 development, administration and automation, all in the sole
15 discretion of the Guam Finance Commission. The Guam Finance
16 Commission also may designate additional members of the Special
17 Accounting Service, in its absolute discretion."

18 (c) Item (ii) of paragraph (b) of §19953 of Chapter XII, Title XX of the
19 Government of Code of Guam, is hereby repealed and reenacted to read:

20 "(ii) develop a specific blueprint for the consolidation of
21 government economic information as a basis for management of a
22 central Fiscal Policy Economic Information System, including
23 administration of the Guam Econometric Model as provided in item
24 (ii) of subsection (a) of this section, to be administered by a Special
25 Economic Service. The Special Economic Service shall be under the
26 direct control and authority of the Guam Finance Commission, and
27 shall be comprised of the Senior Economist of the Department of

1 Revenue and Taxation, the Chief of Planner of the Bureau of Budget
2 and Management Research, the Chief Economist of the Department
3 of Commerce, the Research Manager of the Guam Visitors Bureau,
4 the Senior Economist of the Department of Labor, the Chief
5 Economist of the Bank of Guam, and consulting economists and
6 statisticians recruited for the purpose of macroeconomic design,
7 management and automation, all in the sole discretion of the Guam
8 Finance Commission. The Guam Finance Commission also may
9 designate additional members of the Special Accounting Service, in
10 its absolute discretion."

11 (d) Paragraph (b) of §19954 of Chapter XII, Title XX of the
12 Government Code of Guam, is hereby repealed and reenacted to read:

13 "(b) **Membership and vacancies.** The following provisions
14 shall apply notwithstanding the provisions of §19951 of this Chapter:

15 (i) All person who were members of the Guam Tax
16 Code Commission on the effective date of Public Law No. 22-
17 74 shall continue to serve as members of the Guam Finance
18 Commission (the "Commission"), all in accordance with the
19 following subparagraphs.

20 (ii) (A) The three (3) voting members of the Guam Tax
21 Code Commission who were appointed by the
22 Governor shall continue to serve as voting members
23 of the Commission, and may be removed from the
24 Commission only for cause as determined by a
25 majority vote of the members.

26 (B) The five (5) voting members of the Guam Tax
27 Code Commission who were appointed by the

1 Speaker of the Legislature shall continue to serve as
2 voting members of the Commission, and may be
3 removed from the Commission only for cause as
4 determined by a majority vote of the members.

5 (C) The Director of Revenue and Taxation on the
6 effective date of Public Law No. 22-74 (the "Transition
7 Director") shall serve as an individual voting member
8 of the Commission, and may be removed from the
9 Commission only for cause as determined by a
10 majority vote of the members.

11 (I) During any such time as the Transition
12 Director serves as Director of the Revenue and
13 Taxation, (i) the Transition Director shall serve as
14 an individual voting member of the Commission
15 and **not** as an **ex officio** non-voting member, and
16 (ii) he may also appoint a designee to serve on the
17 Commission, to occupy such **ex officio** position in
18 his stead. Such designee shall serve at the
19 pleasure of the Transition Director.

20 (II) During any such time as the Transition
21 Director does not serve as Director of Revenue
22 and Taxation, the Director Revenue and Taxation
23 shall serve as an **ex officio** non-voting member of
24 the Commission in accordance with the provisions
25 of paragraph (d) of §19951 of this Chapter.

26 (iii) If those members referred to in the preceding
27 subparagraph (ii) who serve on the Commission

1 number seven (7) or more, then any vacancy caused
2 because any such member ceases to serve shall not be
3 filled and the number of voting members shall be
4 reduced by one (1). On and after the date at which
5 those members referred to in the preceding
6 subparagraph (ii) who serve on the Commission
7 become six (6) or less, then any vacancy caused
8 because any such member ceases to serve shall be filled
9 in accordance with the provisions of paragraph (a) of
10 §19551 of this Chapter. In the event any person
11 appointed pursuant to paragraph (a) of §19551
12 (subsequent to the time upon which those members
13 referred to in the preceding subparagraph (ii) who
14 serve on the Commission become six (6) or less) shall
15 fail or cease to serve, the vacancy thereby created shall
16 be filled in accordance with the provisions of
17 paragraph (a) of §19551 of this Chapter. The
18 Governor shall not appoint Commission members
19 pursuant to said paragraph (a) **except** as provided in
20 this subparagraph.

21 (iv) The Governor shall not serve as an **ex officio** voting
22 member of the Commission in accordance with the
23 provisions of paragraph (b) of §19951 of this Chapter
24 until January 2, 1995. It is expressly provided that the
25 Governor shall serve on the Commission solely in his
26 or her **ex officio** capacity, and only during such period
27 as he or she serves as Governor.

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(v) The Chairperson of the Legislature's Committee on Federal and Foreign Affairs and the Chairperson of the Legislature's Committee on Ways and Means shall continue to serve as **ex officio** voting members of the Commission in accordance with the provisions of paragraph (c) of §19951 of this Chapter. It is expressly provided that, notwithstanding the provisions of Section 39 of Public Law No. 20-220, such Chairpersons of the Committees on Federal and Foreign Affairs and on Ways and Means shall serve on the Commission solely in their **ex officio** capacities, and only during such period as they serve as Chairpersons of such committees."

(e) **Effective date.** The effective date of this section is January 2, 1995.

6
12/9/94

(Date)

PL 22 - 144
Roll 1207

Senators	Aye	No	Declined to Vote	Required to vote	Excused from voting	ABSENT/OUT DURING ROLL CALL
Ada, Thomas C.		✓				
AGUON, John P.	✓					
ARRIOLA, Elizabeth P.	✓					
BAMBA, George J.	✓					
BLAZ, Anthony C.	✓					
BORDALLO, Madeleine Z.						✓
BROOKS, Doris F.		✓				
CAMACHO, Felix P.		✓				
DIERKING, Hermina D.	✓					
GUTIERREZ, Carl T. C.			✓			
LUJAN, Pilar C.	✓					
MANIBUSAN, M. D. A.	✓					
NELSON, Ted S.	✓					
PANGELINAN, Vicente C.		✓				
PARKINSON, Don		✓				
REYES, Edward D.	✓					
SAN AGUSTIN, Joe T.	✓					
SANTOS, Francis E.	✓					
SHIMIZU, David L. G.	✓					
TANAKA, Thomas V. C.		✓				
UNPINGCO, Antonio R.		✓				

TOTAL

12	7	1			1
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OFFICE OF THE VICE-SPEAKER
Twenty-Second Guam Legislature
Senator John Perez Aguon

Chairman, Committee on Tourism & Transportation

155 Hessler St., Agana, Guam USA 96910 • (671)472-3435 • 472-3497 • 472-3570/1/2 • Facsimile: (671)477-8358

November 30, 1994

Honorable Joe T. San Agustin, Speaker
 22nd Guam Legislature
 155 Hessler St.
 Agana, Guam 96910

Dear Mr. Speaker,

The Committee on Tourism & Transportation, to which the following was referred, wishes to report its findings and recommendations:

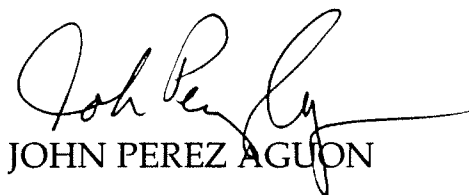
BILL NO. 1227 as substituted by the Committee on Tourism & Transportation: AN ACT TO AMEND 11 GCA §30101 RELATIVE TO THE HOTEL OCCUPANCY TAX.

The voting record on BILL NO. 1227 is as follows:

TO PASS	<u>10</u>
NOT TO PASS	<u>5</u>
TO ABSTAIN	<u>0</u>
TO PLACE IN THE INACTIVE FILE	<u>0</u>
NOT VOTING	<u>0</u>

The recommendation of the Committee is to do pass. A copy of the voting sheet, report and all pertinent documents are attached for your information.

Sincerely,


 JOHN PEREZ AGUON


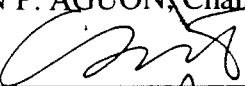
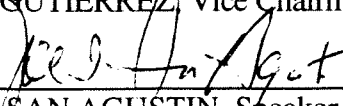

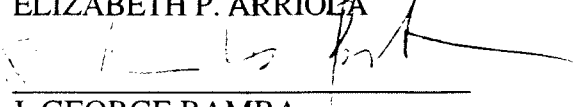

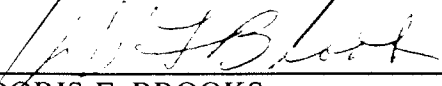
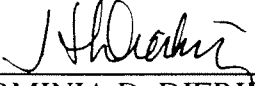

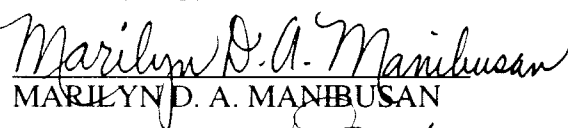
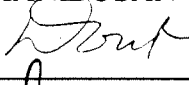



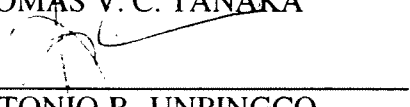
Attachments



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VOTING SHEET • COMMITTEE ON TOURISM & TRANSPORTATION

BILL NO. 1227 as substituted by the Committees on Tourism & Transportation and Ways & Means: AN ACT TO AMEND 11 GCA §30101 RELATIVE TO THE HOTEL OCCUPANCY TAX.

	TO PASS	NOT TO PASS	TO ABSTAIN	TO PLACE IN INACTIVE FILE
 JOHN P. AGUON, Chairman	✓			
 CARL GUTIERREZ, Vice Chairman		✓		
 JOE T. SAN AGUSTIN, Speaker	✓			
 ELIZABETH P. ARRIOLA	✓			
 J. GEORGE BAMBA	✓			
 MADELEINE Z. BORDALLO	✓			
 DORIS F. BROOKS		✓		
 HERMINIA D. DIERKING	✓			
 PILAR C. EUJAN	✓			
 MARILYN D. A. MANIBUSAN	✓			
 DON PARKINSON			✓	
 FRANCIS E. SANTOS	✓			
 DAVID G. SHIMIZU	✓			
 THOMAS V. C. TANAKA		✓		
 ANTONIO R. UNPINGCO		✓		



22nd Guam Legislature
**COMMITTEE ON
TOURISM and
TRANSPORTATION**

COMMITTEE REPORT

BILL 1227: AN ACT TO AMEND 11 GCA
§30101 RELATIVE TO THE HOTEL
OCCUPANCY TAX.

PUBLIC HEARING:

November 25, 1994

VICE SPEAKER JOHN PEREZ AGUON, Chairman

SENATOR CARL T.C. GUTIERREZ, Vice Chairman

Members:

SPEAKER JOE T. SAN AGUSTIN

**SENATOR ELIZABETH P. ARRIOLA
SENATOR J. GEORGE BAMBA
SENATOR MADELEINE Z. BORDALLO
SENATOR DORIS F. BROOKS
SENATOR HERMINIA D. DIERKING
SENATOR PILAR C. LUJAN**

**SENATOR MARILYN D.A. MANIBUSAN
SENATOR DON PARKINSON
SENATOR FRANCIS E. SANTOS
SENATOR DAVID L.G. SHIMIZU
SENATOR THOMAS V.C. TANAKA
SENATOR ANTONIO R. UNPINGCO**

TWENTY-SECOND GUAM LEGISLATURE
1994 (SECOND) Regular Session

Bill No. 1227

As substituted by the Committee on
Tourism & Transportation

Introduced by:

J. P. AGUON
F. E. SANTOS

AN ACT TO AMEND 11 GCA §30101 RELATIVE TO THE
HOTEL OCCUPANCY TAX.

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

2 Section 1. 11 GCA §30101 is amended to read:

3 **"§30101. Imposition.**

4 An excise tax is hereby levied and imposed which shall be
5 assessed and collected monthly, against transient occupants of a room
6 or rooms in a hotel, lodging house, or similar facility located in Guam
7 according to the following schedule:

8 (a) From September 1, 1993 through [~~February 28, 1995~~] March
9 31, 1995, the rate shall be ten percent (10%) of the rental price charged
10 or paid per occupancy per day;

11 (b) From [~~March~~] April 1, 1995 and thereafter the rate shall be
12 [~~ten percent (10%)~~] eleven percent (11%) of the rental price charged or
13 paid per occupancy [~~per day on rooms rented at a rate of Ninety~~
14 ~~Dollars (\$90) per day or less, and thirteen percent (13%) of the rental~~
15 ~~price charged or paid per occupancy per day on rooms rented at a rate~~
16 ~~of greater than Ninety Dollars (\$90)] per day.~~

17 [~~Under subsections (a) and (b), if~~] If the room or rooms are

1 rented more than once within a twenty-four (24) hour period, each
2 time of occupancy shall be subject to the tax for such accommodations.

3 This tax applies and is collectible when the sale is made, regardless
4 of the time when the price is paid or delivered. It shall be paid by the
5 consumer to the operator or owner of the hotel or rooming house
6 facility."

COMMITTEE REPORT

The Committee on Tourism and Transportation and the Committee on Ways and Means held a joint public hearing on November 25, 1994 at 3 p. m. in the Legislative public hearing room to receive testimonies of Bill 1227.

BILL 1227 – AN ACT TO AMEND 11GCA §30101 RELATIVE TO THE HOTEL OCCUPANCY.

Present at the hearing were Senators John Perez Aguon, Chairman of the Committee on Tourism and Transportation, Francis E. Santos, committee member, Carl T. C. Gutierrez, Chairman of the Committee on Ways and Means, Thomas C. Ada and Vicente C. Pangelinan, Ways and Means Committee members.

Signing in to testify on the bill were Michael Carlson, General Manager of the Guam Visitors Bureau, David B. Tydingco, President of the Guam Hotel and Restaurant Association, Otoji Hirayama and Bruce Kloppenburg, President and Vice President, respectively, of the Japan Guam Travel Association.

The Guam Visitors Bureau, in supporting Bill 1227, recommended that 11% of the Hotel Occupancy Tax (H. O. T.) be allocated to fund the GVB budget, Tourism Infrastructure Bond obligation, financial commitment to the Guam Community College Tourism Program and the Beach Cleaning; and that the Board of Directors be given the authority to make certain that the balance 0.5% of the H. O. T. proceeds be strictly use to fund product improvement such as major sightseeing spots and beautification projects and for recovery campaigns in case of emergencies.

The Guam Hotel and Restaurant Association (GHRA) also testified in support of the bill subject to the amendment as recommended by GVB; otherwise it maintains its position that an 11% H. O. T. would be sufficient to cover the obligations of the Tourist Attraction Fund (TAF).

The Japan Guam Travel Association (JGTA) in their written testimony opposed Bill 1227, stating that the success of the private and public sector effort to increase the visitor arrivals during the last two years was due to the reduction of both private sector rates and public sector H. O. T. rates. Otoji Hirayama, President of JGTA,

cautioned against any action that may undermine this effort in order to continue on the road to recovery.

Hirayama differed with GVB and GHRA's position that in order for the TAF to meet its current obligation, an increase in the tax from 10% to 11% is required with an additional 0.5% increase to fund "product improvement" projects. He said that in reviewing this position, JGTA finds that GVB and GHRA's analysis of the financial implication of P. L. 22-32 failed to include an increase in room rates for 1995 which can be translated to a partial percentage point increase in the H. O. T. and that the current rate of 10% is both sufficient to meet TAF's current obligations and provide GVB with a "project improvement" fund. Hirayama further said that in all probability, next year's visitor arrivals will exceed GVB and GHRA's projection of 1,080,000 further increasing the revenue to the TAF.

For the record, Senator Aguon asked Bruce Kloppenburg if he is a member of GVB Board making the recommendation to increase the H. O. T. and also a member of the organization (J. G. T. A.) opposing the increase. Bruce replied in the positive and indicated that as Vice President of J. G. T. A. he is representing the organization at the hearing and that his position at the board meeting was not to raise the tax. He said that he cannot say he voted "no" on the board recommendation but he fought hard to retain the current occupancy tax.

Senator Aguon asked GVB General Manager, Michael Carlson, what was the voting numbers when the proposal was made to increase the tax. Carlson said that he believe there about nine members present at the meeting but he doesn't recall anyone voting against the recommendation.

Senator Aguon said: "I am just trying to get a straight signal here, because it is very difficult to come forward to a body, knowing that you are part of two organizations that are formally part of the system". Bruce Kloppenburg again clarified that he is present at the hearing in behalf of JGTA.

Senator Aguon noted that in GHRA's written testimony, they indicated that, ". . . as a result of previous actions, the TAF and its specific purpose have been compromised". He asked David Tydingco, President of GHRA, if he can provide the committee with some specifics on how the TAF have been compromised?

Tydingco said that in the past there was concern about using the TAF and he needs to go back to the record, but he believes that at one point it was being used to pay for items outside of the tourism industry, it may have been for teachers salary, but he needs to go back to the record for the specifics.

In response to the question as to who compromised the TAF, Tydingco said he has to go back to the record. He is not saying that the Legislature did it, but those with the authority had done it and that's why they are trying to protect the integrity of the fund through legislation. When Senator Aguon asked GVB General Manager, Michael Carlson, if he has anything to add to GHRA's statement regarding the compromise of the TAF, Carlson said they only hope that consideration be given to the Bureau's request for the oversight of the half per cent of whatever money is collected in the tax, as it has been requested in the past.

Senator Aguon said that he realized the Board's request but he wish to come up with justification on how and why should the Legislature provide the setting aside. He said that he is just trying to find out how the TAF had been compromised and why the present cash balance is far from what it was once before.

Carlson said that they have received a copy of the audit of FY92 or maybe FY93, and it showed a large amount of receivable in the TAF. It didn't go into detail as to the breakdown of the receivable but it's in the millions and is not available for us to use or for us to recommend projects to the Legislature when that money was not available for appropriation.

Senator Aguon said the reason he is raising the concern is that he is trying to find out where GVB is coming from. He said: "We all know from reading the newspaper and information from others that the Executive Branch has been tapping the TAF without authorization from the Guam Legislature. And I just wondered why haven't the Bureau taken a very strong position if they feel that the Executive Branch doesn't have the authority to spend that money, why haven't they challenge the authority. Even if we give you the authorization by law, but then the Governor comes around and spend the TAF without authorization, then where are we at. I am just wondering whether the GVB has taken a position in term of challenging the action made of spending the TAF. Is the Bureau contemplating in challenging that action?"

Carlson said that they have had some discussion with administration officials and at least insure that moneys for the budget are made available. Beyond that, the board had voiced concern but they

haven't had an opportunity to sit down and find out what's going to happen with the receivables. He said that they are more concern with the receivable rather than the fiscal year cash flow.

Senator Carl Gutierrez, Chairman of the Committee on Ways and Means, wanted to know from JGTA what kind of a room rate increase in 1995, and what necessitated it, are they referring to in their testimony which will make up the additional 1% H. O. T. recommended by GVB and GHRA.

Hirayama, President of JGTA, said that in the negotiation between all hotels and package tour wholesalers, all hotels will increase rates to 10% from April 1, 1995 to March 31, 1996. Hirayama told Senator Gutierrez that the average group rate at the hotels is perhaps \$100 so increasing that by 10% will bring it up to \$110 or \$115 depending on the size of the wholesaler.

Senator Gutierrez said: "So you figure that that increase room rate is already hurting and you don't want another 1.5% added on; that would increase then to another 1.5% increase to that room rate".

Hirayama agreed.

Senator Gutierrez said that what he is hearing from Hirayama is that this is a very precarious time to increase the H. O. T., just beginning the recovery. He asked Hirayama if he would be averse to looking at the Hotel Occupancy Tax again two years from now if it's left at 10%, when we see things stabilize in the next couple of years?

Hirayama said that until their package price on the average is a good price compare to Hawaii or Okinawa, they'd like to keep the 10% H. O. T.

Following a lengthy discussion on the competition on room rates, addressing Michael Carlson, Senator Gutierrez said: "This idea that your are competing internationally is the focus that you should have. To some, you might have an inferior product here to compete with Hawaii and you can't be at par with Hawaii as far as taxation is concerned simply because it's a nice number but it's what they have to offer there and the distance versus what you got here.

"Personally, if I had my total say so here, I would leave the 10% alone for several more years 'til we really get ourselves out of the precarious situation that I see right now, on the road to real recovery, and until we get more tourist attractions here and other amenities so that we can effectively compete with other destinations that may have more to offer to the tourists other than just a short distance from Guam to Japan. That would be my position, and I did make that known to the Chairman of the Tourism Committee that I would stick with that position and I proffered that same thoughts to

the community during my campaign for the Chief Executive. I think that we should stay with that if I can implore my colleagues and I'll do my best to do that, because I think that when you compete internationally you cannot just take for granted our local needs here we got to be more innovative in providing those clean up services and tourist attractions that's got to be maintained".

Senator Francis Santos asked Carlson whose figures are reliable as far as tourists arrivals, JGTA is saying that GVB and GHRA are too conservative in their projections? Who is more accurate?

Carlson said that he doesn't think they disagree on the arrival figures, as you said working on a conservative view, we don't want to be caught short, overextend ourselves and have a big problem. "GHRA and GVB pretty much agree that at certain funding levels we are going to get certain kinds of dollars", Carlson said. "Where we do disagree is that they felt that we don't include a room rate increase, GHRA, I think did, I'll let Dave speak on that. We're pretty at a point now where we're saying the bottom line is the package price that they are going to offer in Japan and of course other wholesalers elsewhere.

Senator Santos asked, the tourists that come here, are they more price driven or value driven when they are buying a package deal? Carlson said they are changing now to value for money and they are not so much as frivolous as in past years.

Senator Santos' other concern was that he didn't see GVB hollering when Governor Ada took six million dollars from the TAF. He asked Carlson why nobody came to the rescue except Senator Aguon and other senators who were amazed. Carlson said that they found out about the action of the Governor the same way the Senators did, through the media.

Senator Vicente Pangelinan said that he would not support giving total discretionary authority to GVB over the 0.5% increase if the Legislature should do so. He said that he thinks the money should be generated and should be appropriated by the Legislature. He said that he is not willing to give up the authority and the responsibility of the Legislature to appropriate funds that are generated by government resources. He said that he doesn't agree with that concept.

There being no further witness, Senator Aguon said: "I am not sure what direction to take, I was hoping maybe that we will have some kind of a real partnership with an understanding where we may be

able to come up with a common approach. It appears to me based on the testimonies presented that on the one hand, we have the Guam Visitors Bureau saying 11.5 and JGTA to keep it at 10. So I'm a little bit lost here, I think it's important that we review the situation so that we can have a common agreement on which direction to take. If we don't do anything, ladies and gentlemen, I hope you are all aware that we presently have a law and under the current law it says that it will be 10% H. O. T. for hotels \$90 and below and 13% above \$90. So if we can't come up with a common understanding and agreement on an approach, we might just have to leave it like that until such time that we come up with some kind of a compromise. But I have taken the initiative to go ahead and introduce the legislation of 11.5% thinking along the line that there is unanimous cooperation among all the industry leaders. Without that, I am not ready to make a move now since I see a division and we've heard from the Governor-Elect that he is willing to stick to the present arrangement unless he comes up with legislation later on when he gets into office. I have vigorously and aggressively move to endorse a recommendation that I thought was unanimous. But based on the testimonies, I am not willing to take a position at this time until I am certain that the decision I'm making is a decision that everybody would agree and it is in the best interest of everybody else. So, at this point in time, I would like to let everybody know that I will have to take this under advisement and deliberate on it further".

Bruce Kloppenburg requested to make a comment and said: "I got the feeling here that we are fighting each other and we agree to disagree on the approach. But the position of the Guam Visitors Bureau is a very important part of our Japan promotion that we cannot do without, so funding of the Bureau is an absolute must and we support that 100%. We just happen to disagree on what it's going to take in terms of the revenue that's going to be generated by the H. O. T. and we want you to understand, we're not against the GVB".

Senator Aguon said: "I just want to make that clear too because it's going to stay at the present level. My concern is that there have been a lot of pressure, especially from the people in the industry to meet requirements that they feel the government has a degree of obligation to take care of.

"At the present time, I just can't make the decision to move this bill further, I need further advisement and it's going to take a little time especially now that I am feeling where everybody is coming from".

Senator Aguon concluded the hearing saying: "Ladies and gentlemen, 10% and 13% is what we have, thank you very much".

At this point, David Tydingco requested to comment and said: "I think this issue is too critical especially from the GHRA side. If I may I'd like to try to get a working session among ourselves here to reach a unanimity".

At this point Senator Aguon interjected saying: "I saw your testimony and I'd like for you people in the industry to get together and have a working session, that's why you have an organization. Get together and come up with one direction and this chair will gladly entertain whatever is the common unified effort on the part of everybody. The main thing is to have the resources to take care of our needs, and take care of the people of Guam. Thank you very much, Si Yuus Maase and maraming salamat po.

ADDENDUM:

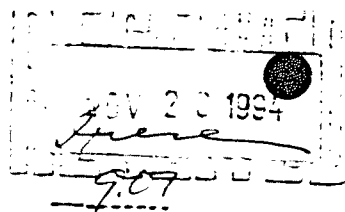
The attached **selfexplanatory** letter dated November 26, 1994 amends the respective testimonies and positions presented by representatives of JGTA, GHRA and GVB at the public hearing on Bill 1227, November 25, 1994, and is herein made a part of this Committee Report.

RECOMMENDATION

The Committee on Tourism and Transportation recommended to set the Hotel Occupancy Tax rate at 11% and further recommended that Bill 1227 as substituted by the Committee be passed.



Guam Visitors Bureau
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Commonwealth Now!

November 26, 1994

The Honorable John Perez Aguon
Chairman, Committee On Tourism & Transportation
The Honorable Carl T.C. Guterrez
Chairman, Committee On Ways and Means
22nd Guam Legislature
155 Hesler Place
Agana, Guam 96910

Dear Chairman Aguon and Chairman Guterrez:

Following yesterday's public hearing, representatives from the Japan Guam Travel Association (JGTA), the Guam Hotel & Restaurant Association (GHRA) and the Guam Visitors Bureau (GVB) met to discuss the testimonies presented and the comments made by various committee members.

The core issue which appeared to divide the industry was the perceived need to raise the Hotel Occupancy Tax to a sufficient level to cover existing obligations while still remaining competitive with other destinations. The JGTA position of a ten percent (10%) single-tiered tax had been predicated upon an analysis which indicated that increased visitor arrivals, coupled with a ten percent (10%) increase in room rates, would result in tax collections which would cover existing operations. The methodology employed by JGTA was thoroughly examined by all parties. After much scrutiny it was finally agreed that the methodology did not allow for yen fluctuation and gave no margin for error should the actual visitor arrivals be less than projected.

The methodology employed by GHRA and GVB was then put through the same scrutiny. After lengthy discussion it was finally determined that this methodology did allow for yen fluctuation and provided a margin for error. Because of these factors, it was agreed by all parties to use this particular methodology in determining the amount of taxes to be generated at the various levels. It was also agreed by all parties that the minimum total to be collected had to match the existing obligations which totalled \$16.1 million.

The next item of discussion was the amount of adjustment to the room rates to be used in the methodology. Because there were differing accounts of what this figure actually was, it was agreed that a seven and a half percent (7.5%) across the board increase was representative of what to expect for CY1995.

A number crunching session then began to determine at what tax level would this amount of revenues be generated. Subsequently, it was calculated that the eleven percent

(11%) tax level, coupled with the seven and a half percent (7.5%) room rate increase, would generate \$16.88 million. All parties felt that this level of collection would not only be sufficient to fund the existing obligations, but that it also allowed for those uncertain times should either manmade and/or natural setbacks affect visitor arrivals.

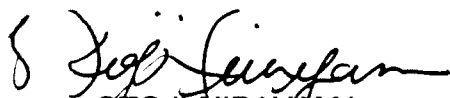
Lastly, it was recommended that this level be implemented for a period of three (3) years beginning April 1, 1995. This recommendation was prompted by the comments made by Chairman Guiterrez suggesting that in two (2) years time the industry may be in even a better position than it presently is to assess the need to charge any level of taxes.

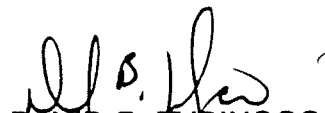
In summary, the Japan Guam Travel Association, The Guam Hotel & Restaurant Association, and the Guam Visitors Bureau submit the following recommendations to the Committees on Tourism & Transportation and Ways and Means:


1. That the present tax rate of ten percent (10%) be increased to eleven percent (11%);
2. That the proposed two-tiered tax structure be revised to a single-tiered flat tax structure;
3. That the eleven percent (11%) tax rate be effective April 1, 1995;
4. That this proposed tax rate be in effect for a three (3) year period beginning April 1, 1995; and,
5. That at the end of the three (3) year period, the Guam Visitors Bureau shall prepare a report on the effects of this tax rate, and that copies of this report shall be transmitted to the Governor, the Speaker, and to the Chairpersons of the Committee on Tourism & Transportation and Ways and Means.

Please contact any of the undersigned should you have any questions or comments on these recommendations. Again, please accept our thanks for allowing the industry to comment further on Bill No. 1227.

Sincerely,


OTOJI HIRAYAMA
President, JGTA


DAVID B. TYDINGCO
President, GHRA


MICHAEL D. CARLSON
General Manager, GVB



Guam Visitors Bureau
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Commonwealth Now!

November 25, 1994

The Honorable John Perez Aguon
Chairman, Committee On Tourism & Transportation
The Honorable Carl T.C. Guterrez
Chairman, Committee On Ways and Means
22nd Guam Legislature
155 Hesler Place
Agana, Guam 96910

Dear Chairman Aguon and Chairman Guterrez:


The Guam Visitors Bureau supports the passage of Bill No. 1227. This legislation recommends an increase in the current Hotel Occupancy Tax rate to a level which will generate sufficient revenues to fund existing obligations, and also allow for the accumulation of surplus funds to be used for other improvements to Guam's visitor industry.

It is important to note at this point that the existing obligations total some \$16.1 million at the present funding levels. Without this additional 1.5% added to the current tax rate, reductions in certain ongoing programs and projects are a reality. The end result of these reductions is not a certainty, but the Bureau is firmly convinced that there exists a certain minimum level of exposure which must be maintained in order to remain competitive with other destinations.

The Bureau would also like to point out that the Tourist Attraction Fund was once awash with surplus funds. The present cash balance is far from what it once was, yet few of those monies have been spent on improvements to the infrastructure, the community, or any project or program which would provide additional activities for our visitors and residents to enjoy. For this reason, the Bureau requested that its Board of Directors be given the authority to oversee the expenditure of those surplus funds which would be collected by imposing an additional half percent increase. It is again requested that language to this effect be considered and added to Bill No. 1227.

Thank you for allowing GVB an opportunity to testify on this legislation. We will try to answer any questions that you and your committee members may have on our position.

Sincerely,


MICHAEL D. CARLSON
General Manager



GUAM HOTEL & RESTAURANT ASSOCIATION

**TESTIMONY BEFORE THE COMMITTEE ON TOURISM ON TOURISM &
TRANSPORTATION AND COMMITTEE ON WAYS & MEANS
ON BILL NO. 1227 "AN ACT TO AMEND 11 GCA SECTION 30101 RELATIVE TO THE
HOTEL OCCUPANCY TAX"**

HAFA ADAI MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS DAVID TYDINGCO, PRESIDENT OF THE GUAM HOTEL & RESTAURANT ASSOCIATION AND I AM HERE TO TESTIFY IN SUPPORT OF BILL NO. 1227 SUBJECT TO AMENDMENT BY THE LEGISLATURE.

THE MEMBERS OF THE VISITOR INDUSTRY, BOTH GOVERNMENT AND PRIVATE, HAVE WORKED IN PARTNERSHIP OVER THE PAST SEVERAL MONTHS TO REVITALIZE OUR TOURISM NUMBERS. THIS PARTNERSHIP PROVIDED A REDUCTION IN THE HOTEL OCCUPANCY TAX AS WELL AS ROOM RATES THAT ALLOWED GUAM TO BE MORE COMPETITIVE AS A DESTINATION. FOR THE PERIOD JANUARY 1994 TO OCTOBER 1994, THE WEIGHTED OCCUPANCY RATE WAS 70%. WE ARE NOW SEEING A DELICATE AND VOLATILE RECOVERY OCCURRING.

AT THIS TIME, WE MUST STAY THE COURSE AND CONTINUE THE PARTNERSHIP TO ASSURE A SOLID RECOVERY. WE ANTICIPATE THE MILLIONTH VISITOR TO COME TO OUR ISLAND IN EARLY DECEMBER, BUT THIS MILESTONE IN OUR VISITOR ARRIVALS COULD EASILY BE UNDERMINED BY INAPPROPRIATE ACTIONS ON THE PART OF OUR PARTNERSHIP.

THE GUAM HOTEL & RESTAURANT ASSOCIATION HAS WORKED CLOSELY WITH THE STAFF OF THE GUAM VISITORS BUREAU IN ANALYZING THE FINANCIAL IMPACT OF PUBLIC LAW 22-32 WHICH REDUCED THE HOTEL OCCUPANCY FROM 13% TO 10%. IN DEVELOPING A POSITION ON THIS ISSUE, WE TOOK INTO CONSIDERATION THE CURRENT FINANCIAL STATE OF THE TOURIST ATTRACTION FUND AND ITS OBLIGATIONS.

THROUGH THE ANALYSIS, THE GUAM HOTEL & RESTAURANT ASSOCIATION AND THE GUAM VISITORS BUREAU DETERMINED THAT AN 11% HOTEL OCCUPANCY TAX WOULD BE SUFFICIENT TO MEET THE CURRENT OBLIGATIONS OF THE TOURIST ATTRACTION FUND IN ADDITION TO PROVIDING A THREE HUNDRED THOUSAND DOLLARS SURPLUS.

AT ITS OCTOBER 28, 1994 REGULAR MEETING, THE GUAM VISITORS BUREAU BOARD OF DIRECTORS, RECOMMENDED THAT AN ADDITIONAL 0.5% BE ADDED TO THE HOTEL OCCUPANCY TAX. AS PART OF THE RECOMMENDATION, THE GVB BOARD OF DIRECTORS STATED THAT THE REVENUES COLLECTED AS A RESULT OF THE 0.5% TAX WOULD BE ADMINISTERED BY THE GUAM VISITORS BUREAU BOARD OF DIRECTORS FOR SPECIFIC "PRODUCT IMPROVEMENT" PROJECTS THAT ARE SORELY NEEDED FOR THE VISITOR INDUSTRY. DURING A RECENT TOUR OF ISLAND FACILITIES SPONSORED BY THE TOURISM INDUSTRY RELATIONS COMMITTEE OF GVB, SEVERAL PARK AREAS WERE IDENTIFIED TO BE IN A SEVERE NEED OF UPGRADE. FREQUENTLY VISITED SITES SUCH AS TWO LOVERS POINT, THE STATUE OF LIBERTY PARK, AND THE FORT APUGAN OVERLOOK WERE IN A SAD STATE OF REPAIR. GHRA BELIEVES THAT SPECIFICALLY EARMARKING FUNDS FOR SUCH IMPROVEMENTS WILL ULTIMATELY BENEFIT THE

**TESTIMONY ON BILL NO. 1227
NOVEMBER 25, 1994
PAGE 2**

VISITOR INDUSTRY. HAVING GVB AS THE ADMINISTRATOR OF THE FUND WOULD BE APPROPRIATE AS THEY HAVE FIRST HAND KNOWLEDGE OF THE SPECIFIC NEEDS THAT MUST BE ADDRESSED FOR THE VISITOR INDUSTRY.

GHRA IS CONCERNED, AS A RESULT OF PREVIOUS ACTIONS, THAT THE TOURIST ATTRACTION FUND AND ITS SPECIFIC PURPOSE HAVE BEEN COMPROMISED. WE MUST RESTORE THE INTEGRITY OF THE FUND AND USE IT TO ENHANCE THE DEVELOPMENT OF OUR VISITOR INDUSTRY, THE CATALYST TO GUAM'S ECONOMY.

IF IT IS NOT POSSIBLE TO ALLOW 0.5% OF THE 11.5% TO BE ADMINISTERED BY THE GUAM VISITORS BUREAU, THE GHRA MAINTAINS ITS POSITION THAT A ONE PERCENT INCREASE TO 11% WOULD BE SUFFICIENT TO COVER THE OBLIGATIONS OF THE TOURIST ATTRACTION FUND.

I WOULD BE GLAD TO ANSWER ANY QUESTIONS YOU MAY HAVE ON THIS MATTER.

THANK YOU.

TESTIMONY OF**OTOJI HIRAYAMA
President, JGTA****On Bill No. 1227**

Hafa Adai Senator Aguon and members of the Committee on Tourism and Transportation:

My name is Otoji Hirayama, President of the Japan-Guam Travel Association (J.G.T.A.) and I am here to testify in opposition to Bill #1227.

Private and Public sector visitor industry officials have worked together diligently these last two years to increase our visitor arrivals. Paramount to our success has been the reduction of both private sector rates and public sector Hotel Occupancy Tax (H.O.T.) rates.

In order to continue on the road to recovery we must be cautious of any actions that may undermine this effort. Hawaii is currently preparing a major promotional effort for Japan in 1995 and Okinawa will be reducing their package rates to attract additional visitors. We must continuously be aware of the fact that we must offer competitive package rates to compete with other destinations. Although no one can accurately say exactly how much the reduction of the H.O.T. has helped in our recovery, it is our position that it was essential to that recovery.

The Guam Visitors Bureau (G.V.B.) and the Guam Hotel and Restaurant Association (G.H.R.A.) have worked very closely together to assess the financial implications of Public Law 22-32. They have developed a position which through their analysis has determined that the reduction in the tax assisted Guam in its recovery efforts. However, in order for the Tourist Attraction Fund (TAF) to meet it's current obligation an increase in the tax

from 10% to 11% is required. Additionally, a 0.5% increase would be required for "product improvement" projects that are desperately needed.

Our review of this position finds that the analysis is flawed and that the current rate of 10% is both sufficient to meet the T.A.F.'s current obligations and provide G.V.B. with a "project improvement" fund. In our review we have determined that both G.V.B. and G.H.R.A. have failed to include an increase in room rates for 1995. This increase can be transcribed to a partial percentage point increase in the H.O.T.. Furthermore, our analysis of their projected visitor arrival figures, shows that they have taken a very conservative approach and that in all probability next years arrivals will exceed their projections, further increasing the revenue to the T.A.F..

In the past Guam had come under some criticism due to escalating cost associated with doing business in Guam. In recognizing that, this legislative body assisted our industry by reducing the H.O.T. from 13% to 10% in August of 1993. Your actions then were instrumental in our recovery efforts to date and your actions today will again be instrumental to our continuous growth.

Mr. Chairman and Members of the Committee, the J.G.T.A. opposes a Bill that will increase the H.O.T.. We do support maintaining the H.O.T. at a **permanent** current level of 10%. Additionally we encourage any legislation that will assist the G.V.B. to complete their mission as mandated by law.

Mr. Chairman and Members of the Committee on behalf of the J.G.T.A. thank you for the opportunity to express our views.

