



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Refer to
Legislative Secretary

MAY 12 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGEMENT	
Received by:	
Time	10:50am
Date	5.13.99

Dear Speaker Unpingco:

Enclosed please find Bill No. 90 (COR), "AN ACT TO AMEND §§58128.6(a) AND 58128.6(b) AND TO ADD §§58128.6(c), 58128.6(d), 58128.6(e), 58128.6(f) and 58128.6(g) TO CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO GUAM-BASED TRUSTS", which I have signed into law today as **Public Law No. 25-08**.

This legislation enlarges upon the initial legislation recommended by the Guam Economic Development Authority to encourage trusts to be established on Guam to stimulate the economic growth on our island. This legislation was initially passed in Public Law No. 24-266.

The current legislation allows Guam-based trusts as well as Guam residents who are beneficiaries of trusts to also take advantage of the new program. This will further encourage new trusts to come to Guam and to be established on Guam.

Very truly yours,

Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary


00219

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 5-13-99
Time: 1450
Rec'd by:
Print Name: Chabre

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

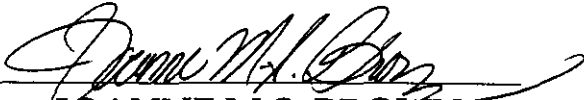
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Bill No. 90 (COR), "AN ACT TO AMEND §§58128.6(a) AND 58128.6(b) AND TO ADD §§58128.6(c), 58128.6(d), 58128.6(e), 58128.6(f) AND 58128.6(g) TO CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO GUAM-BASED TRUSTS," was on the 28th day of April, 1999, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



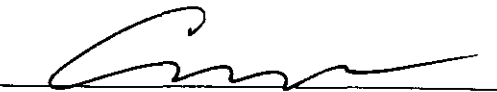
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 30TH day of April, 1999,
at 5:44 o'clock P.M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 5-12-99

Public Law No. 25-08

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 90 (COR)

As amended by the Committee on
Tourism, Economic Development and
Parks and further amended on the Floor.

Introduced by:

A.C. Lamorena, V
V. C. Pangelinan
K. S. Moylan
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
L. F. Kasperbauer
C. A. Leon Guerrero
J. C. Salas
S. A. Sánchez, II
A. R. Unpingco

**AN ACT TO AMEND §§58128.6(a) AND 58128.6(b) AND
TO ADD §§58128.6(c), 58128.6(d), 58128.6(e), 58128.6(f)
AND 58128.6(g) TO CHAPTER 58, DIVISION 2 OF TITLE
12 OF THE GUAM CODE ANNOTATED, RELATIVE TO
GUAM-BASED TRUSTS.**

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

2 **Section 1.** Section 58128.6(a) of Chapter 58, Division 2 of Title 12 of the
3 Guam Code Annotated is hereby *amended* to read as follows:

1 **"Section 58128.6(a). One Hundred Percent Rebate on Certain**
2 **Trust Income.** A rebate of one hundred percent (100%) of all income tax
3 paid to the government of Guam by a Guam-based trust on all its earnings
4 from either inside or outside of Guam, including all income derived from
5 investing funds on Guam or elsewhere, may be issued for a period *not to*
6 *exceed* twenty (20) consecutive years from the effective date of a Special
7 Qualifying Certificate therefor. For purposes of this §58128.6, a '*Guam-*
8 *based trust*' means: (i) an arrangement created by will or by an *inter vivos*
9 declaration whereby a trustee or trustees take title to property to protect or
10 conserve the same for a beneficiary or beneficiaries of the trust [under
11 probate or chancery court rules]; and (ii) Guam is the principal place of
12 administration of the trust. Such Special Qualifying Certificates for Guam-
13 based trusts may be renewed for additional periods of twenty (20) years at
14 the conclusion of the first or later periods so long as the trust remains in
15 good standing under the laws of Guam and under the rules and
16 regulations of the Authority."

17 **Section 2.** Section 58128.6(b) of Chapter 58, Division 2 of Title 12 of the
18 Guam Code Annotated is hereby *amended* to read as follows:

19 **"Section 58128.6(b). Rebates on Payments to Beneficiaries of**
20 **Guam-Based Trusts.** A rebate of one hundred percent (100%) of the
21 income tax withheld from the beneficiaries of a Guam-based trust on the
22 payments or distributions made to such beneficiaries from such a Guam-
23 based trust may be issued for a period *not to exceed* twenty (20) consecutive
24 years from the effective date of the Special Qualifying Certificate; *provided,*

1 that: (i) the Guam-based trust making the payments or distributions is the
2 holder of a Special Qualifying Certificate; (ii) the payments or distributions
3 are made from the property of such Guam-based trust, which payments or
4 distributions were received, on a cash basis, during the original or an
5 extended period of the Special Qualifying Certificate; *and* (iii) the payments
6 or distributions were subject to a withholding tax thereon pursuant to
7 those provisions of the Territorial Income Tax Law requiring the
8 withholding as income tax thereon of a fixed percentage of any fixed or
9 determinable annual or periodical gains, profits or income received by non-
10 residents of Guam. Such Special Qualifying Certificates of Guam-based
11 trusts may be renewed for additional periods of twenty (20) years at the
12 conclusion of the first or later periods, so long as the Guam-based trust that
13 is the holder of a Special Qualifying Certificate and is in good standing
14 under the laws of Guam and under the rules and regulations of the
15 Authority.”

16 **Section 3.** Section 58128.6(c) is hereby *added* to Chapter 58, Division 2 of
17 Title 12 of the Guam Code Annotated to read as follows:

18 “(c) A Guam-based Trust desiring to apply for a Special Qualifying
19 Certificate shall make application by filing a copy of the trust instrument
20 and a completed application in the form as required by the corporation
21 (GEDA). The corporation, upon ascertaining that the material furnished by
22 the applicant is in proper order, and that the fees established in the
23 Corporations’s Rules and Regulations having been paid, shall thereupon
24 promptly forward its recommendation for issuance of the Special

1 Qualifying Certificate to *I Maga'lahaen Guahan* who shall approve the
2 application."

3 **Section 4.** Section 58128.6(d) is hereby *added* to Chapter 58, Division 2 of
4 Title 12 of the Guam Code Annotated to read as follows:

5 "(d) A true copy of the Special Qualifying Certificate shall be
6 attached to each tax return of the Guam-based Trust, and the amount of tax
7 due prior to the rebate shall be deposited with the government at the time
8 of filing of each income tax return."

9 **Section 5.** Section 58128.6(e) is hereby *added* to Chapter 58, Division 2 of
10 Title 12 of the Guam Code Annotated to read as follows:

11 "(e) Taxes deposited by the Guam-based Trust shall *not* be placed in
12 the General Fund or commingled with other funds, but shall be deposited
13 by the Director of the Revenue and Taxation in a special purpose trust
14 accounts in one (1) or more FDIC insured banks with offices within Guam,
15 and shall be withdrawn from such accounts only for the purpose of making
16 rebates as provided herein."

17 **Section 6.** Section 58128.6(f) is hereby *added* to Chapter 58, Division 2 of
18 Title 12 of the Guam Code Annotated to read as follows:

19 "(f) The provisions of Chapter 58 of Title 12 of the Guam Code
20 Annotated shall *not* apply to any Guam-based Trust applying for a Special
21 Qualifying Certificate, specifically §§58112, 58116, 58119, 58123, 58124 and
22 58125."

23 **Section 7.** Section 58128.6(g) is hereby *added* to Chapter 58, Division 2 of
24 Title 12 of the Guam Code Annotated to read as follows:

1 "(g) It is the intent of *I Liheslaturan Guahan* that no portion of the
2 rebates of income tax made under this Section shall be subject to income
3 taxation."

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

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 4/28/99

VOTING SHEET

Bill No. 90 (COR)

Resolution No. _____

Question: _____

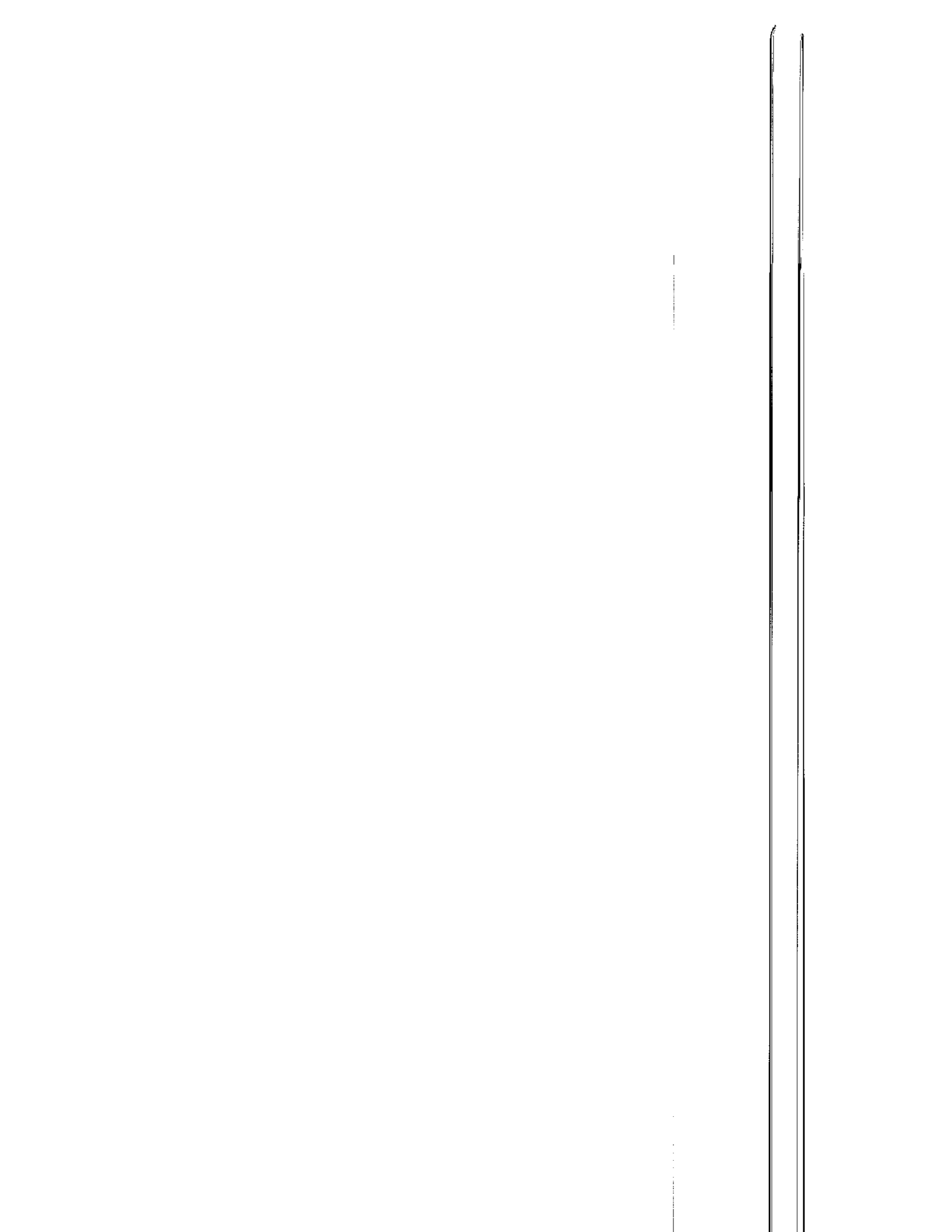
<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT ROLL CALL</u>
AGUON, Frank B., Jr.	✓				
BLAZ, Anthony C.	✓				
BERMUDES, Eulogio C.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.					EA ✓

TOTAL 14 _____

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



4/28/99

**MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. 90 (COR)

As amended by the Committee on
Tourism, Economic Development and
Parks and further amended on the Floor.

*

Introduced by:

- A.C. Lamorena, V
- V. C. Pangelinan
- K. S. Moylan
- F. B. Aguon, Jr.
- E. C. Bermudes
- A. C. Blaz
- J. M.S. Brown
- E. B. Calvo
- M. G. Camacho
- Mark Forbes
- L. F. Kasperbauer
- C. A. Leon Guerrero
- J. C. Salas
- S. A. Sanchez, II
- A. R. Unpingco

**AN ACT TO AMEND §§58128.6(a) AND 58128.6(b) AND
TO ADD §§58128.6(c), 58128.6(d), 58128.6(e), 58128.6(f)
AND 58128.6(g) TO CHAPTER 58, DIVISION 2 OF TITLE
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3 Guam Code Annotated is hereby *amended* to read as follows:

1 **“Section 58128.6(a). One Hundred Percent Rebate on Certain**
2 **Trust Income.** A rebate of one hundred percent (100%) of all income tax
3 paid to the government of Guam by a Guam-based trust on all its earnings
4 from either inside or outside of Guam, including all income derived from
5 investing funds on Guam or elsewhere, may be issued for a period *not to*
6 *exceed* twenty (20) consecutive years from the effective date of a Special
7 Qualifying Certificate therefor. For purposes of this §58128.6, a ‘*Guam-*
8 *based trust*’ means: (i) an arrangement created by will or by an *inter vivos*
9 declaration whereby a trustee or trustees take title to property to protect or
10 conserve the same for a beneficiary or beneficiaries of the trust [under
11 probate or chancery court rules]; and (ii) Guam is the principal place of
12 administration of the trust. Such Special Qualifying Certificates for Guam-
13 based trusts may be renewed for additional periods of twenty (20) years at
14 the conclusion of the first or later periods so long as the trust remains in
15 good standing under the laws of Guam and under the rules and
16 regulations of the Authority.”

17 **Section 2.** Section 58128.6(b) of Chapter 58, Division 2 of Title 12 of the
18 Guam Code Annotated is hereby *amended* to read as follows:

19 **“Section 58128.6(b). Rebates on Payments to Beneficiaries of**
20 **Guam-Based Trusts.** A rebate of one hundred percent (100%) of the
21 income tax withheld from the beneficiaries of a Guam-based trust on the
22 payments or distributions made to such beneficiaries from such a Guam-
23 based trust may be issued for a period *not to exceed* twenty (20) consecutive
24 years from the effective date of the Special Qualifying Certificate; *provided,*

1 that: (i) the Guam-based trust making the payments or distributions is the
2 holder of a Special Qualifying Certificate; (ii) the payments or distributions
3 are made from the property of such Guam-based trust, which payments or
4 distributions were received, on a cash basis, during the original or an
5 extended period of the Special Qualifying Certificate; *and* (iii) the payments
6 or distributions were subject to a withholding tax thereon pursuant to
7 those provisions of the Territorial Income Tax Law requiring the
8 withholding as income tax thereon of a fixed percentage of any fixed or
9 determinable annual or periodical gains, profits or income received by non-
10 residents of Guam. Such Special Qualifying Certificates of Guam-based
11 trusts may be renewed for additional periods of twenty (20) years at the
12 conclusion of the first or later periods, so long as the Guam-based trust that
13 is the holder of a Special Qualifying Certificate and is in good standing
14 under the laws of Guam and under the rules and regulations of the
15 Authority.”

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17 Title 12 of the Guam Code Annotated to read as follows:

18 “(c) A Guam-based Trust desiring to apply for a Special Qualifying
19 Certificate shall make application by filing a copy of the trust instrument
20 and a completed application in the form as required by the corporation
21 (GEDA). The corporation, upon ascertaining that the material furnished by
22 the applicant is in proper order, and that the fees established in the
23 Corporations’s Rules and Regulations having been paid, shall thereupon
24 promptly forward its recommendation for issuance of the Special

1 Qualifying Certificate to *I Maga'lahaen Guahan* who shall approve the
2 application."

3 **Section 4.** Section 58128.6(d) is hereby *added* to Chapter 58, Division 2 of
4 Title 12 of the Guam Code Annotated to read as follows:

5 "(d) A true copy of the Special Qualifying Certificate shall be
6 attached to each tax return of the Guam-based Trust, and the amount of tax
7 due prior to the rebate shall be deposited with the government at the time
8 of filing of each income tax return."

9 **Section 5.** Section 58128.6(e) is hereby *added* to Chapter 58, Division 2 of
10 Title 12 of the Guam Code Annotated to read as follows:

11 "(e) Taxes deposited by the Guam-based Trust shall *not* be placed in
12 the General Fund or commingled with other funds, but shall be deposited
13 by the Director of the Revenue and Taxation in a special purpose trust
14 accounts in one (1) or more FDIC insured banks with offices within Guam,
15 and shall be withdrawn from such accounts only for the purpose of making
16 rebates as provided herein."

17 **Section 6.** Section 58128.6(f) is hereby *added* to Chapter 58, Division 2 of
18 Title 12 of the Guam Code Annotated to read as follows:

19 "(f) The provisions of Chapter 58 of Title 12 of the Guam Code
20 Annotated shall *not* apply to any Guam-based Trust applying for a Special
21 Qualifying Certificate, specifically §§58112, 58116, 58119, 58123, 58124 and
22 58125."

23 **Section 7.** Section 58128.6(g) is hereby *added* to Chapter 58, Division 2 of
24 Title 12 of the Guam Code Annotated to read as follows:

1 "(g) It is the intent of *I Liheslaturan Guahan* that no portion of the
2 rebates of income tax made under this Section shall be subject to income
3 taxation."

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



Ufisina Para I Minaolek Guåhan

Senator Alberto "Tony" Cristobal Lamorena V

Mina Bente Singko Na Liheslaturan Guåhan
(Twenty-Fifth Guam Legislature)



April 21, 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina Bente Singko Na Liheslaturan Guåhan
155 Hesler St.
Hagåtña, Guam 96932

Dear Mr. Speaker,

The Committee on Tourism, Economic Development and Parks, to which was referred **Bill No. 90, An Act to Amend Section 58128.6 (a) and (b) and to add new subsections (c), (d), (e) and (g) of the same section of Chapter 58, Division 2 of Title 12 of the Guam Code Annotated Relating to Guam Based Trust**, has had the same under consideration, and now wishes to report back the same with the recommendation **To Pass, as amended**.

The Committee votes are as follows:

To Pass	<u> 6 </u>
Not To Pass	<u> 0 </u>
Abstain	<u> 0 </u>
Inactive File	<u> 0 </u>

A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

ALBERTO C. LAMORENA, V

attachments



Senator Alberto "Tony" Cristobal Lamorena V

Chairman

COMMITTEE ON TOURISM, ECONOMIC DEVELOPMENT AND PARKS

Mina' Bente Singko Na Liheslaturan Guahan
(Twenty-Fifth Guam Legislature)

VOTING SHEET ON BILL NO. 90

AN ACT TO AMEND SECTION 58128.6 (a) AND (b) AND TO ADD NEW SUBSECTIONS (c), (d), (e) and (g) OF THE SAME SECTION OF CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED RELATING TO GUAM BASED TRUST.



RECOMMENDATION TO

Committee Members	Signature	To pass	Not to pass	Abstain	Place in Inactive File
Senator Alberto "Tony" Lamorena Chairperson					
Senator Joanne Brown Vice Chairperson					
Speaker Antonio Unpingco		✓			
Senator Anthony Blaz					
Senator Mark Forbes		✓			
Senator Carlotta Leon Guerrero		✓			
Senator Kaleo Moylan		✓			
Senator John Salas					
Senator Simon Sanchez II					
Senator Frank Aguon, Jr.		✓			
TOTAL VOTES:		6			

**COMMITTEE ON TOURISM,
ECONOMIC DEVELOPMENT AND PARKS**
Mina Bente Singko Na Liheslaturan Guåhan
155 Hesler Street Hagåtña, Guam 96932

COMMITTEE REPORT

ON

Bill No. 90

An Act to Amend Section 58128.6 (a) and (b) and to add new subsections (c), (d), (e), (f) and (g) of the same section of Chapter 58, Division 2 of Title 12 of The Guam Code Annotated Relating to Guam Based Trust

COMMITTEE MEMBERS

Chairman: Senator Alberto C. Lamorena, V

Vice Chairperson: Senator Joanne M.S. Brown

Senator Anthony C. Blaz

Senator Kaleo S. Moylan

Senator Mark Forbes

Senator Simon A. Sanchez, II

Senator Carlotta A. Leon Guerrero

Senator John C. Salas

COMMITTEE REPORT

Bill No. 90

An Act to Amend Section 58128.6 (a) and (b) and to add new subsections (c), (d), (e), (f) and (g) of the same section of Chapter 58, Division 2 of Title 12 of The Guam Code Annotated Relating to Guam Based Trust

INTRODUCTION

The Committee on Tourism, Economic Development and Parks conducted a Public Hearing 1:13 p.m. Friday, April 16, 1999 in the Public Hearing Room of the Guam Legislature Temporary Bldg. in Hagatña.

Committee Members Present: Senator Alberto C. Lamorena, V., Chairman
Senator

Other Senators Present: Senator
Senator

Witnesses: Ed Untalan, Administrator
Guam Economic Development Authority
Phil Flores, President
Guam Savings and Loan
Al Pickens, ...
Deloitte, Touche & Associates
Eloise Baza, President
Guam Chamber of Commerce

SUMMARY OF TESTIMONY

Ed Untalan Administrator for the Guam Economic Development Authority provided the committee with testimony in support of the bill.

written testimony in support of the bill.

Al Pickens, managing partner of Deloitte, Touche & LLP provided the committee with testimony in support of the bill.

Eloise Baza, President of the Guam Chamber of Commerce provided the committee with testimony in support of the bill.

There being no other witnesses appearing on the bill, the Chairman declared Bill No. 90 duly publicly heard.

COMMITTEE RECOMMENDATIONS

The Committee on Tourism, Economic Development and Parks hereby reports out Bill No. 90 to I Mina' Bente Singko Na Liheslaturan Guåhan with the recommendation **To Pass, as amended.**



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

April 30, 1999

The Honorable Carl T.C. Gutierrez
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Bill No. 90 (COR) which was passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on April 28, 1999.

Sincerely,

JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (1)

REC'D FOR HENRY C. FLORES
TIME: 5:44 pm DATE: 4/30/99

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

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

This is to certify that Bill No. 90 (COR), "AN ACT TO AMEND §§58128.6(a) AND 58128.6(b) AND TO ADD §§58128.6(c), 58128.6(d), 58128.6(e), 58128.6(f) AND 58128.6(g) TO CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO GUAM-BASED TRUSTS," was on the 28th day of April, 1999, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 30TH day of APRIL, 1999,
at 5:45 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 90 (COR)

As amended by the Committee on
Tourism, Economic Development and
Parks and further amended on the Floor.

Introduced by:

A.C. Lamorena, V
V. C. Pangelinan
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14 under the laws of Guam and under the rules and regulations of the
15 Authority.”

16 **Section 3.** Section 58128.6(c) is hereby *added* to Chapter 58, Division 2 of
17 Title 12 of the Guam Code Annotated to read as follows:

18 “(c) A Guam-based Trust desiring to apply for a Special Qualifying
19 Certificate shall make application by filing a copy of the trust instrument
20 and a completed application in the form as required by the corporation
21 (GEDA). The corporation, upon ascertaining that the material furnished by
22 the applicant is in proper order, and that the fees established in the
23 Corporations’s Rules and Regulations having been paid, shall thereupon
24 promptly forward its recommendation for issuance of the Special

1 Qualifying Certificate to *I Maga'lahaen Guahan* who shall approve the
2 application."

3 **Section 4.** Section 58128.6(d) is hereby *added* to Chapter 58, Division 2 of
4 Title 12 of the Guam Code Annotated to read as follows:

5 "(d) A true copy of the Special Qualifying Certificate shall be
6 attached to each tax return of the Guam-based Trust, and the amount of tax
7 due prior to the rebate shall be deposited with the government at the time
8 of filing of each income tax return."

9 **Section 5.** Section 58128.6(e) is hereby *added* to Chapter 58, Division 2 of
10 Title 12 of the Guam Code Annotated to read as follows:

11 "(e) Taxes deposited by the Guam-based Trust shall *not* be placed in
12 the General Fund or commingled with other funds, but shall be deposited
13 by the Director of the Revenue and Taxation in a special purpose trust
14 accounts in one (1) or more FDIC insured banks with offices within Guam,
15 and shall be withdrawn from such accounts only for the purpose of making
16 rebates as provided herein."

17 **Section 6.** Section 58128.6(f) is hereby *added* to Chapter 58, Division 2 of
18 Title 12 of the Guam Code Annotated to read as follows:

19 "(f) The provisions of Chapter 58 of Title 12 of the Guam Code
20 Annotated shall *not* apply to any Guam-based Trust applying for a Special
21 Qualifying Certificate, specifically §§58112, 58116, 58119, 58123, 58124 and
22 58125."

23 **Section 7.** Section 58128.6(g) is hereby *added* to Chapter 58, Division 2 of
24 Title 12 of the Guam Code Annotated to read as follows:

1 "(g) It is the intent of *I Liheslaturan Guahan* that no portion of the
2 rebates of income tax made under this Section shall be subject to income
3 taxation."

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



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

April 22, 1999
(DATE)

FILE
COPY

Memorandum

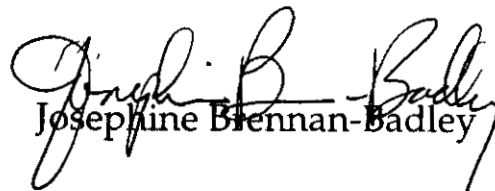
To: Senator ALBERTO A.C. LAMORENA V

From: Clerk of the Legislature

Subject: Report on Bill No. 90 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 90 (COR) for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment

ACKNOWLEDGEMENT RECEIPT
Received By: Mona
Time: 8:43 AM
Date: 4-22-99



Ufisina Para I Minaolek Guahan

Senator Alberto "Tony" Cristobal Lamorena V

Mina/Bente Singko Na Liheslaturan Guahan
(Twenty-Fifth Guam Legislature)



April 21, 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina Bente Singko Na Liheslaturan Guahan
155 Hesler St.
Hagåtña, Guam 96932

Dear Mr. Speaker,

The Committee on Tourism, Economic Development and Parks, to which was referred **Bill No. 90, An Act to Amend Section 58128.6 (a) and (b) and to add new subsections (c), (d), (e) and (g) of the same section of Chapter 58, Division 2 of Title 12 of the Guam Code Annotated Relating to Guam Based Trust**, has had the same under consideration, and now wishes to report back the same with the recommendation **To Pass, as amended**.

The Committee votes are as follows:

To Pass	<u> ✓ </u>
Not To Pass	<u> ⊖ </u>
Abstain	<u> ⊖ </u>
Inactive File	<u> ⊖ </u>

A copy of the Committee Report and all pertinent documents are attached for your information and file.

Sincerely,

ALBERTO C. LAMORENA, V

attachments



Senator Alberto "Tony" Cristobal Lamorena V

Chairman

COMMITTEE ON TOURISM, ECONOMIC DEVELOPMENT AND PARKS

Mina' Bente Singko Na Liheslaturan Guåhan
(Twenty-Fifth Guam Legislature)

VOTING SHEET ON BILL NO. 90

AN ACT TO AMEND SECTION 58128.6 (a) AND (b) AND TO ADD NEW SUBSECTIONS (c), (d), (e) and (g) OF THE SAME SECTION OF CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED RELATING TO GUAM BASED TRUST.



RECOMMENDATION TO

Committee Members	Signature	To pass	Not to pass	Abstain	Place in Inactive File
Senator Alberto "Tony" Lamorena Chairperson					
Senator Joanne Brown Vice Chairperson					
Speaker Antonio Unpingco		<input checked="" type="checkbox"/>			
Senator Anthony Blaz					
Senator Mark Forbes		<input checked="" type="checkbox"/>			
Senator Carlotta Leon Guerrero		<input checked="" type="checkbox"/>			
Senator Kaleo Moylan		<input checked="" type="checkbox"/>			
Senator John Salas					
Senator Simon Sanchez II					
Senator Frank Aguon, Jr.		<input checked="" type="checkbox"/>			
TOTAL VOTES:		6			

**COMMITTEE ON TOURISM,
ECONOMIC DEVELOPMENT AND PARKS**
Mina Bente Singko Na Liheslaturan Guåhan
155 Hesler Street Hagåtña, Guam 96932

COMMITTEE REPORT

ON

Bill No. 90

An Act to Amend Section 58128.6 (a) and (b) and to add new subsections (c), (d), (e), (f) and (g) of the same section of Chapter 58, Division 2 of Title 12 of The Guam Code Annotated Relating to Guam Based Trust

COMMITTEE MEMBERS

Chairman: Senator Alberto C. Lamorena, V

Vice Chairperson: Senator Joanne M.S. Brown

Senator Anthony C. Blaz

Senator Kaleo S. Moylan

Senator Mark Forbes

Senator Simon A. Sanchez, II

Senator Carlotta A. Leon Guerrero

Senator John C. Salas

COMMITTEE REPORT

Bill No. 90

An Act to Amend Section 58128.6 (a) and (b) and to add new subsections (c), (d), (e), (f) and (g) of the same section of Chapter 58, Division 2 of Title 12 of The Guam Code Annotated Relating to Guam Based Trust

INTRODUCTION

The Committee on Tourism, Economic Development and Parks conducted a Public Hearing 1:13 p.m. Friday, April 16, 1999 in the Public Hearing Room of the Guam Legislature Temporary Bldg. in Hagatña.

Committee Members Present: Senator Alberto C. Lamorena, V., Chairman
Senator

Other Senators Present: Senator
Senator

Witnesses: Ed Untalan, Administrator
Guam Economic Development Authority
Phil Flores, President
Guam Savings and Loan
Al Pickens, ...
Deloitte, Touche & Associates
Eloise Baza, President
Guam Chamber of Commerce

SUMMARY OF TESTIMONY

Ed Untalan Administrator for the Guam Economic Development Authority provided the committee with testimony in support of the bill.

written testimony in support of the bill.

Al Pickens, managing partner of Deloitte, Touche & LLP provided the committee with testimony in support of the bill.

Eloise Baza, President of the Guam Chamber of Commerce provided the committee with testimony in support of the bill.

There being no other witnesses appearing on the bill, the Chairman declared Bill No. 90 duly publicly heard.

COMMITTEE RECOMMENDATIONS

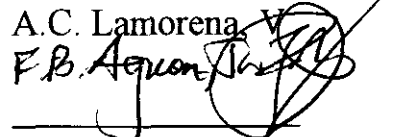
The Committee on Tourism, Economic Development and Parks hereby reports out Bill No. 90 to I Mina' Bente Singko Na Liheslaturan Guahan with the recommendation **To Pass, as amended.**

MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 90 (COR)
as Amended by the Committee on
Tourism, Economic Development and Parks

Introduced by:

A.C. Lamorena
F.B. Aquino



AN ACT TO AMEND SECTION 58128.6 (a) AND (b) AND TO ADD
NEW SUBSECTIONS (c), (d), (e), (f) and (g) OF THE SAME
SECTION OF CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE
GUAM CODE ANNOTATED RELATING TO GUAM BASED
TRUST.

BE IT ENACTED BY THE PEOPLE OF GUAM:

**Section 1. Section 58128.6 (a) of Chapter 58, Division 2 of Title 12 of the
Guam Code Annotated is hereby amended to read as follows:**

**“§58128.6.(a) One Hundred Percent Rebate on Certain Trust
Income.** A rebate of one hundred percent (100%) of all income tax paid to the
government of Guam by a Guam-based trust on all its earnings from either inside
or outside of Guam, including all income derived from investing funds in Guam
or elsewhere, may be issued for a period not to exceed twenty (20) consecutive
years from the effective date of a Special Qualifying Certificate therefor. For
purposes of this §58128.6, a ‘*Guam-based trust*’ means: (i) an arrangement
created by will or by an *inter vivos* declaration whereby a trustee or trustees take
title to property to protect or conserve the same for a beneficiary or beneficiaries

1 of the trust [under probate [~~and~~] or chancery court rules]; and (ii) Guam is the
2 principal place of administration of the trust [~~], and (iii) none of the beneficiaries~~
3 ~~of the trust are residents of Guam]. Such Special Qualifying Certificates for~~
4 Guam-based trusts may be renewed for additional periods of twenty (20) years
5 at the conclusion of the first or later periods so long as the trust remains in good
6 standing under the laws of Guam and under the rules and regulations of the
7 Authority.”

8 **Section 2. Section 58128.6(b) of Chapter 58, Division 2 of Title 12 of the**
9 **Guam Code Annotated is hereby amended to read as follows:**

10 “**§58128.6.(b) Rebates on Payments to [Non-resident]**
11 **Beneficiaries of Guam-Based Trusts.** A rebate of one hundred percent
12 (100%) of the income tax withheld from the [~~non-resident~~] beneficiaries of a
13 Guam-based trust on the payments or distributions made to such beneficiaries
14 from such a Guam-based trust may be issued for a period not to exceed twenty
15 (20) consecutive years from the effective date of the Special Qualifying
16 Certificate [~~there~~]; *provided*, that (i) the Guam-based trust making the payments
17 or distributions is the holder of a Special Qualifying Certificate; (ii) the
18 payments or distributions are made from the property of such Guam-based trust,
19 which payments or distributions were received, on a cash basis, during the
20 original or an extended period of the Special Qualifying Certificate; and (iii) the
21 payments or distributions were subject to a withholding tax thereon pursuant to
22 those provisions of the Territorial Income Tax Law requiring the [~~withhold~~]
23 withholding as income tax thereon of a fixed percentage of any fixed or
24 determinable annual or periodical gains, profits or income received by non-
25 residents of Guam. Such Special Qualifying Certificates for [~~non-resident~~

1 beneficiaries] of Guam-based trusts may be renewed for additional periods of
2 twenty (20) years at the conclusion of the first or later periods so long as the
3 ~~[holder of the Qualifying Certificate remains a beneficiary of a]~~ Guam-based
4 trust that is the holder of ~~[its own]~~ a Special Qualifying Certificate and is in good
5 standing under the laws of Guam and under the rules and regulations of the
6 Authority.”

7 **Section 3. Section 58128.6 (c), (d), (e), (f), and (g) is added to Chapter 58,**
8 **Division 2 of Title 12 of the GCA to read:**

9 (c) A Guam-based Trust desiring to apply for a Special Qualifying
10 Certificate shall make application by filing a copy of the trust instrument and a
11 completed application in the form as required by the corporation (GEDA). The
12 corporation, upon ascertaining that the material furnished by the applicant is in proper
13 order, and that the fees established in the Corporations’s Rules and Regulations having
14 been paid, shall thereupon promptly forward its recommendation for issuance of the
15 Special Qualifying Certificate to the Governor of Guam who shall approve the
16 application.

17 (d) A true copy of the Special Qualifying Certificate shall be attached to
18 each tax return of the Guam-based Trust and the amount of tax due to prior to the
19 rebate shall be deposited with the Government at the time of filing of each income tax
20 return.

21 (e) Taxes deposited by the Guam-based Trust shall not be placed in the
22 General Fund or commingled with other funds, but shall be deposited by the Director
23 of the Revenue and Taxation in a special purpose trust accounts in one or more FDIC
24 insured banks with offices within Guam and shall be withdrawn from such accounts
25 only for the purpose of making rebates as provided herein.

1 (f) The provisions of 12 GCA Chapter 58 shall not apply to any Guam-
2 based Trust applying for a Special Qualifying Certificate, specifically §§ 58112, 58116,
3 58119, 58123, 58124, and 58125.

4 (g) It is the intent of the Legislature that no portion of the rebates of
5 income tax made under this Section shall be subject to income taxation.

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

TESTIMONY ON BILL 90

An Act to Amend Sections 58128.6(a) and (b), Chapter 58, Div. 2, Title 12, GCA
Relating to Guam-based Trust

April 16, 1999

Good afternoon, Chairman Lamorena and members of the Committee on Tourism, Economic Development & Parks, ladies and gentlemen.

My name is Ed Untalan, and I am the Administrator of the Guam Economic Development Authority (GEDA). I am here on behalf of the Authority to provide testimony on behalf of BILL 90, which would amend GEDA's QC law by providing additional incentives through the trust industry, to attract investable funds from off-island which would provide opportunities to increase the *overall* employment on Guam.

Regarding §58128.6(a): We do not oppose the removal of condition (iii) requiring that "none of the beneficiaries" of the trust be residents of Guam for the following reasons:

- The current restrictive wording could discourage certain trusts (who may have both Guam-resident and off-island resident beneficiaries) from establishing on Guam.
- The current wording could discourage non-resident beneficiaries of Guam-based trusts from moving to Guam.
- The current wording may encourage existing trusts on Guam (with Guam resident beneficiaries) which most likely use local financial service institutions for their deposits, to consider moving off-island in search of a tax haven, thus causing a negative impact to Guam's economy.

However, we need to be very cautious and first determine the extent of any impact that granting tax rebates to Guam-based Trusts would have on our island's current fiscal condition. GEDA has inquired with the Department of Revenue and Taxation about the exact amount of trust-related tax revenues currently collected which would no longer be available with the passage of this bill. Understandably, since the Department of Revenue & Taxation has tax filings as its top priority in the month of April, they have not yet had the opportunity to respond.

Regarding §58128.6(b): we do not oppose the removal of the "non-resident" requirement for the Guam-based trust beneficiaries as it would simplify the understanding of these

benefits by not creating *categories* of beneficiaries. Leaving this condition in, may in fact discourage off-island trusts (who may not be aware that US resident trust beneficiaries are not currently subject to the withholding tax for off-island residents) from establishing in Guam.

Additional proposed amendments:

Regarding §58128.6(a): In the definition of a Guam-based trust, we propose a deletion of a conditional phrase, to amend the wording as follows: “(i) an arrangement created by will or by an *inter vivos* declaration whereby a trustee or trustees take title to property to protect or conserve the same for a beneficiary or beneficiaries of the trust ~~under probate and chancery court rules....~~” Eliminating this condition would allow more trusts to be established on Guam, thus broadening the opportunities to bring in more investable funds.

Regarding Special Qualifying Certificate for Guam-based Trust. In order to provide the necessary incentive for trusts to establish on Guam, we further propose that a separate section be added to the QC Law (Chapter 58, Title 12, GCA) to authorize the Guam Economic Development Authority to process applications from Guam-based trust in an expeditious manner, as is currently done for Foreign Sales Corporations under a Special Qualifying Certificate program. The proposed change would be to insert the word “Special” before each “Qualifying Certificate” mentioned in §§58128.6(a) and (b), and a new section be added to state:

“(a) A Guam-based Trust desiring to apply for a Special Qualifying Certificate shall make application by filing a copy of the trust instrument and a completed application in the form as required by the corporation (GEDA). The corporation, upon ascertaining that the material furnished by the applicant is in proper order, and that fees established in the Corporation’s Rules and Regulations having been paid, shall thereupon promptly forward its recommendation for issuance of the Special Qualifying Certificate to the Governor of Guam who shall approve the application.

“(b) A true copy of the Special Qualifying Certificate shall be attached to each tax return of the Guam-based Trust and the amount of tax due prior to the rebate shall be deposited with the Government at the time of filing of each income tax return.

“(c) Taxes deposited by a Guam-based Trust shall not be placed in the General Fund or commingled with other funds, but shall be deposited by

the Director of Revenue and Taxation in special purpose trust accounts in one or more FDIC insured banks with offices within Guam and shall be withdrawn from such accounts only for the purpose of making rebates as provided herein.

“(d) The provisions of 12 GCA Chapter 58 shall not apply to any Guam-based Trust applying for a Special Qualifying Certificate, specifically §§58112, 58116, 58117, 58119, 58123, 58124, and 58125.

“(e) It is the intent of the Legislature that no portion of the rebates of income tax made under this Section shall be subject to income taxation.”

In closing, the Guam Economic Development Authority supports the passage of this bill with these additional amendments, in anticipation of the positive impact these proposed amendments would have on the expansion of the island’s financial services industry and the overall economy of Guam.

Thank you, Mr. Chairman and members of the committee, for allowing me this opportunity to testify for GEDA on Bill 90.

A handwritten signature in black ink, appearing to read 'Ed Untalan', with a long horizontal stroke extending to the right.

Ed Untalan
Administrator, GEDA

TESTIMONY TO THE COMMITTEE ON TOURISM, ECONOMIC DEVELOPMENT AND PARKS OF THE TWENTY FIFTH GUAM LEGISLATURE ON BILL NO. 90, AN ACT TO AMEND SECTION 58128 (A) AND (B) OF CHAPTER 58, DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED RELATING TO A GUAM BASED TRUST BY PHILIP J. FLORES.

Chairman Lamorena, Members of the Committee, I am Philip Flores and I come today to testify in favor of Bill No. 90, an Act to Amend Section 58128 (A) and (B) of Chapter 58, Division 2 of Title 12 of the Guam Code Annotated Relating to a Guam Based Trust.

The Twenty Fourth Guam Legislature wisely passed and the governor signed into law legislation which allows off-island trusts to base themselves in Guam and receive tax rebates for residents of jurisdictions outside of Guam.

This legislation will provide increased economic activity in Guam and increase the coffers of the government.

Unfortunately the legislation enacted last year does not allow trusts with Guam residents to partake of the same benefits as nonresidents.

Bill 90 corrects this inequity.

We therefore support Bill 90.

We do note Allen Pickens, managing partner of the Guam office of Deloitte & Touche LLP, has some concerns about the language of certain sections of Bill 90.

It is our understanding these are technical issues.

Should the committee members agree with the concerns of Mr. Pickens, we respectfully request the committee to incorporate the language changes recommended by Mr. Pickens into Bill 90.

Thank you.

**-Philip J. Flores
April 16, 1999**

TESTIMONY ON BILL NO. 90 RE TRUSTS
April 16, 1999

Mr. Chairman, Senators, my name is Allen A. Pickens. I come before you today to testify in favor of Bill No. 90, an Act intended to level the effects of benefits from Guam-based trusts between resident and non-resident beneficiaries.

Recently enacted Public Law 24-266 allows the Territory the opportunity to become competitive in the global financial world in attracting International Trusts. Bill 90 allows the benefits contemplated in the earlier legislation to extend to all beneficiaries, regardless of their choice of domicile.

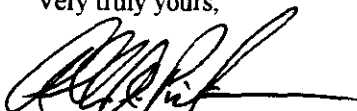
There appears, however, to be some confusion relative to the mechanics involved in issuing Guam Economic Development Authority Qualifying Certificates to accommodate the Legislative intent. The Bill before you alludes to the issuance of a QC to the Trust (page 1) and another to the beneficiaries (page 2, in particular, line 17). In fact, it would be unrealistic to issue more than one QC per Trust. Imagine the Rockefeller Trust with hundreds of beneficiaries as an example. It is not necessary to issue QC's to the beneficiaries as they can be identified in the application for the Trust QC. This procedure is used in currently issued QC's which extend rebates on taxes related to dividends paid to stockholders.

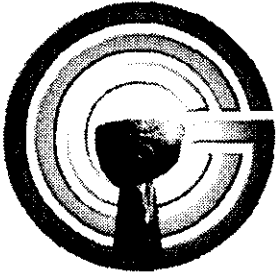
To accommodate the above suggestion and correct other noted oversights and typos, I offer the following;

- ✓ At Page 1, line 12, change "...probate and chancery court rules..." to "probate or chancery court rules."
- ✓ At Page 2, line 4, eliminate "...Non-resident..." in the heading.
- ✓ At Page 2, line 7, change "...Guam-base" to "Guam-based..."
- ✓ At Page 2, line 9, eliminate the word "there" after "Qualifying Certificate."
- ✓ At Page 2, line 15, change "withhold" to withholding."
- ✓ At Page 2, line 16, eliminate "non-residents."
- ✓ At Page 2, line 17, eliminate "for non-resident beneficiaries."
- ✓ At Page 2, line 20 forward, eliminate "beneficiary of a" : eliminate "holder of a Qualifying Certificate remains a beneficiary of a"; eliminate "of its", replace with "a".

Thank you for the opportunity to share our thought with you this afternoon.

Very truly yours,


Allen A. Pickens



GUAM CHAMBER OF COMMERCE
PARTNERS IN PROGRESS

1 9 2 4 - 1 9 9 9

April 16, 1999

SENATOR ALBERTO C. LAMORENA, V
Chairman, Committee on Tourism, Economic
Development & Parks
Suite 314 Union Bank Bldg.
194 Hernan Cortez Avenue
Hagåt'ña, Guam 96910

**SUBJECT: BILL NO. 90, RELATING TO AMENDMENTS TO P.L. 24-266,
GUAM-BASED TRUSTS**

Dear Senator Lamorena:

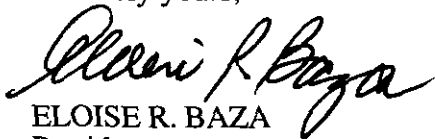
We appreciate the opportunity to submit our views on Bill No. 90, proposing the extension of benefits from Guam-based trusts to resident beneficiaries.

The Guam Chamber of Commerce strongly advocates initiatives essential to the development of Guam-based trusts. Consistent with the objectives of P.L. 24-266, Bill No. 90 will help Guam attain the ability to be competitive in attracting international trusts.

We therefore support the intent of Bill No. 90 and seek your favorable consideration of an amended version of the bill that incorporates specific amendments outlined in the enclosed testimony submitted by Allen A. Pickens, Chairman of our Financial Services Committee.

We thank you for the opportunity to provide you with our recommendations on Bill No. 90.

Sincerely yours,


ELOISE R. BAZA
President

Enclosure

TESTIMONY ON BILL NO. 90 RE TRUSTS
April 16, 1999

Mr. Chairman, Senators, my name is Allen A. Pickens. I come before you today to testify in favor of Bill No. 90, an Act intended to level the effects of benefits from Guam-based trusts between resident and non-resident beneficiaries.

Recently enacted Public Law 24-266 allows the Territory the opportunity to become competitive in the global financial world in attracting International Trusts. Bill 90 allows the benefits contemplated in the earlier legislation to extend to all beneficiaries, regardless of their choice of domicile.

There appears, however, to be some confusion relative to the mechanics involved in issuing Guam Economic Development Authority Qualifying Certificates to accommodate the Legislative intent. The Bill before you alludes to the issuance of a QC to the Trust (page 1) and another to the beneficiaries (page 2, in particular, line 17). In fact, it would be unrealistic to issue more than one QC per Trust. Imagine the Rockefeller Trust with hundreds of beneficiaries as an example. It is not necessary to issue QC's to the beneficiaries as they can be identified in the application for the Trust QC. This procedure is used in currently issued QC's which extend rebates on taxes related to dividends paid to stockholders.

To accommodate the above suggestion and correct other noted oversights and typos, I offer the following:

At Page 1, line 12, change "...probate and chancery court rules..." to "probate or chancery court rules."

At Page 2, line 4, eliminate "...Non-resident..." in the heading.

At Page 2, line 7, change "...Guam-base" to "Guam-based..."

At Page 2, line 9, eliminate the word "there" after "Qualifying Certificate."

At Page 2, line 15, change "withhold" to withholding."

At Page 2, line 16, eliminate "non-residents."

At Page 2, line 17, eliminate "for non-resident beneficiaries."

At Page 2, line 20 forward, eliminate "beneficiary of a" : eliminate "holder of a Qualifying Certificate remains a beneficiary of a"; eliminate "of its", replace with "a".

Thank you for the opportunity to share our thought with you this afternoon.

Very truly yours,



Allen A. Pickens