



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Refer to
Legislative Secretary

JUN 04 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	
ADMINISTRATIVE RECORD	
Received By:	<i>Don</i>
Date:	<i>H: 53</i>
Time:	<i>6/7/99</i>

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 145 (COR), "AN ACT TO ADD CHAPTER 77 TO TITLE 12 OF THE GUAM CODE ANNOTATED AND TO AMEND §7 OF P.L. NO. 24-141, RELATIVE TO SPECIAL PROJECTS AND ACTIVITIES OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY AND THE ADMINISTRATIVE RULES FOR THE MOTOR RACEWAY", which I have signed into law today as **Public Law No. 25-27**.

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

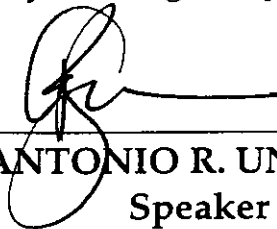
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Office of the Speaker
ANTONIO R. UNPINGCO
Date: *6-7-99*
Time: *1110*
Rec'd by: *Don*
Print Name: *Charles*

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 Substitute Bill No. 145 (COR), "AN ACT TO *ADD* CHAPTER 77 TO TITLE 12 OF THE GUAM CODE ANNOTATED AND TO *AMEND* §7 OF P.L. NO. 24-141, RELATIVE TO SPECIAL PROJECTS AND ACTIVITIES OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY AND THE ADMINISTRATIVE RULES FOR THE MOTOR RACEWAY," was on the 24th day of May, 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 26th day of May, 1999,
at 4:50 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:


CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: 6-4-99

Public Law No. 25-27

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

Bill No. 145 (COR)

As Amended by the Committee on Tourism,
Economic Development and Parks, and
as substituted and amended on the Floor.

Introduced by:

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

**AN ACT TO ADD CHAPTER 77 TO TITLE 12 OF THE
GUAM CODE ANNOTATED AND TO AMEND §7 OF
P.L. NO. 24-141, RELATIVE TO SPECIAL PROJECTS
AND ACTIVITIES OF THE GUAM ECONOMIC
DEVELOPMENT AUTHORITY AND THE
ADMINISTRATIVE RULES FOR THE MOTOR
RACEWAY.**

1 the extent that any business licensed to do business on Guam contributes
2 the cost of design, labor and materials to design and/or construct the
3 Guam Raceway Park, such business must be certified by GEDA to be
4 eligible for any credits against Business Privilege Taxes as authorized by
5 the Act. The maximum amount of such credits authorized on an annual
6 basis shall also be certified by GEDA *prior to* expenditures by any licensed
7 business for the Guam Raceway Park. The maximum amount of credits
8 authorized shall be subject to the limitations set forth in §9 of the Act.

9 **Section 77203. Limits of Liability.** As the Guam Racing
10 Federation having received a license from the Chamorro Land Trust
11 ('Trust') to use Trust property for the Guam Raceway Park, the Trust shall
12 *not* be liable for any claims resulting from the use of such property.
13 Furthermore, consistent with the provisions of §5 of the Act, neither GEDA,
14 the Department of Revenue and Taxation, nor any other agency of the
15 government of Guam shall be liable for any claims arising from the use of
16 such property."

17 **Section 2.** Section 7 of Public Law Number 24-141 is hereby *amended* to
18 read as follows:

19 "Section 7. **Administrative Rules and Regulations.** The Guam
20 Economic Development Authority shall develop administrative rules and
21 regulations for the construction and monitoring of the project contained
22 herein under the provisions of the Administrative Adjudication Law. The
23 rules and regulations may contain limitations on the amount of tax credits
24 that can be applied in a given tax year."

25 **Section 3. Approval of Administrative Rules and Regulations.** The

1 Administrative Rules and Regulations adopted by the Board of Directors of the
2 Guam Economic Development Authority on February 26, 1999, and as appended
3 hereto, are hereby *approved* pursuant to the provisions of Public Law Number 24-
4 141 and Chapter 9 of Title 5 of the Guam Code Annotated.

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

1 (c) **Beneficiary.** *"Beneficiary"* means the recipient of a
2 Certificate.

3 (d) **Board.** *"Board"* means the board of directors of GEDA.

4 (e) **Business Privilege Tax.** *"Business privilege tax,"* also known
5 as the gross receipt tax, means that tax described and assessed under
6 Chapter 26 of Title 11 of the Guam Code Annotated.

7 (f) **Certificate.** *"Certificate"* means a certificate issued by
8 GEDA to a business contributing the cost of design, development, labor,
9 supplies or materials used in the construction of the Guam Raceway Park.

10 (g) **CLTC.** *"CLTC"* means the Chamorro Land Trust
11 Commission, a commission with the government of Guam established
12 under Chapter 75 of Title 21 of the Guam Code Annotated.

13 (h) **Contractor or Subcontractor.** *"Contractor"* or
14 *"Subcontractor"* means a business entity licensed as such which contracts or
15 subcontracts for the construction of the Guam Raceway Park.

16 (i) **Cost.** *"Cost"* means (i) the landed cost of materials or
17 supplies, or the out-of-pocket cost of design or labor plus five percent (5%)
18 of such cost for overhead; and (ii) the cost to the contractor or subcontractor
19 of the funds borrowed to carry out a contract for the construction of the
20 Guam Raceway Park.

21 (j) **Director.** *"Director"* means the Director of Revenue and
22 Taxation of the government of Guam, as described in §1102 of Title 11 of
23 the Guam Code Annotated. The Director is also the Tax Commissioner
24 described in Chapter 26 of such title.

25 (k) **GEDA.** *"GEDA"* means the Guam Economic Development

1 Authority, a public corporation established under Chapter 50 of Title 12 of
2 the Guam Code Annotated.

3 (l) **Guam Raceway Park.** *"Guam Raceway Park"* means that motor
4 vehicle racing facility created by the Guam Racing Federation pursuant to
5 the Act.

6 (m) **Guam Racing Federation.** *"Guam Racing Federation"* means
7 that Guam not-for-profit corporation which will operate the Guam
8 Raceway Park under the Act.

9 (n) **Master Plan.** *"Master Plan"* means the construction time line
10 drafted by the Guam Racing Federation which (i) describes and identifies
11 in reasonable detail all of the phases of the construction of the Guam
12 Raceway Park; (ii) identifies the contractors and subcontractors, if and as
13 known, to be employed in such construction; and (iii) details the tax credits
14 authorized in Part 2 of these Rules to be applied for in each phase of the
15 construction of the Guam Raceway Park, as projected by the Guam Racing
16 Federation.

17 (o) **Materials.** *"Materials"* means goods that become a permanent
18 part of the Guam Raceway Park.

19 (p) **Supplies.** *"Supplies"* means things other than labor or
20 supervision which are consumed in, but do not become a physical part of
21 the Guam Raceway Park.

1 **Purpose of Part I.**

2 **Section 1.03.** The purpose of this Part of the Rules is to establish
3 pursuant to §50103 of Chapter 50 of Title 12 of the Guam Code Annotated, the
4 procedures for monitoring the development of the Guam Raceway Park and
5 certifying its compliance with the terms and conditions of the Act.

6 **Responsibilities of GEDA; Master Plan.**

7 **Section 1.04. (a) Monitoring.** The Administrator shall be
8 responsible for the management and administration of the GEDA
9 compliance program with respect to the Guam Raceway Park. The
10 Administrator may delegate inspections, monitoring and reports
11 thereunder to a GEDA management and compliance officer.

12 **(b) Master Plan.** The Guam Racing Federation shall submit to
13 the Administrator its Master Plan, executed by it and certified to be true
14 and correct by its president and secretary within ninety (90) days after the
15 approval of these Rules by *I Maga'lahen Guahan*. Should the Guam Racing
16 Federation *not* be able to meet the deadline for reasons beyond its control,
17 a written request for an additional ninety (90) day extension shall be
18 submitted to the Administrator for the Administrator's consideration,
19 which request shall *not* be unreasonably denied.

20 **Responsibilities of the Guam Racing Federation.**

21 **Section 1.05.** Under the Act and these Rules, the following are
22 required of the Guam Racing Federation:

23 **(a) Workforce U.S. Citizens.** At all times at least seventy-
24 five percent (75%) of all workers in all employment categories of the
25 workforce of the Guam Racing Federation at the Guam Raceway Park

1 shall be either United States citizens or permanent residents of the
2 United States. All such workers shall be paid no less than prevailing
3 wage rates; provided, however, that for good cause shown GEDA
4 may, from time to time, grant temporary exemptions from such
5 requirement for limited periods of time.

6 (b) **Federation to Control Raceway.** The Guam Racing
7 Federation shall be responsible for maintaining operational control
8 of both construction and the operation of the Guam Raceway Park.

9 (c) **No Leases.** In no case shall the Guam Raceway
10 Park or any portion of its property or assets be leased, licensed or
11 assigned without the *prior* express written approval of CLTC. The
12 terms "leased, licensed, assigned or collateralize" do *not* include
13 entering into a concession agreement whereby a concessionaire sells
14 goods, services or sponsors of any other advertising that may be
15 appropriate within the Guam Raceway Park. Copies of such
16 concession agreements shall be filed with the CLTC.

17 (d) **Local Preference.** Shall be in accordance with the
18 Policy as outlined in §5008 of Article 1, Chapter 5 of Title 5 of the
19 Guam Code Annotated.

20 (e) **Engineer/Architect.** The Guam Racing Federation
21 shall retain the services of a licensed professional engineer or
22 architect to monitor the construction of the Guam Raceway Park and
23 to certify the completion of the various phases of the construction so
24 as to authorize payments therefor. Copies of the reports of such
25 engineer or architect to the Guam Racing Federation shall be filed

1 with GEDA and the CLTC.

2 (f) **Public Notice.** The Guam Racing Federation shall give
3 public notice of the proposed construction of the Guam Raceway
4 Park by placing at least two (2) notices in a newspaper of general
5 circulation on Guam soliciting bids or proposals from contractors to
6 carry out such construction.

7 **Inspections.**

8 **Section 1.06.** The Guam Raceway Park shall be subject to the following
9 inspection requirements:

10 (a) **No Maximum Number.** At a minimum, GEDA shall
11 conduct semi-annual on-site inspections of the Guam Raceway Park, but
12 may conduct as many examinations as the Administrator deems necessary.

13 (b) **End of Fiscal Year.** At least one (1) of such inspections shall
14 be scheduled by GEDA to coincide with the ending of the fiscal year of the
15 Guam Racing Federation.

16 (c) **Construction.** When the Guam Raceway Park is under
17 construction, an inspection shall be conducted by GEDA within thirty (30)
18 to sixty (60) days *prior to* the completion of each phase of construction and
19 a final inspection shall be carried out within thirty (30) days after the
20 completion of all phases of construction of the Guam Raceway Park.

21 (d) **Records.** During the course of all inspections, the Guam
22 Racing Federation shall provide for review by GEDA copies of all its
23 records and documents in order for GEDA to monitor the following:

24 (i) **Adherence to the Act and the Rules.** Adherence to
25 the Act and these Rules by the Guam Racing Federation and whether

1 violations thereof have been corrected, or are being corrected.

2 (ii) **Employment.** Employment levels and classification of
3 the employees of the Guam Racing Federation working at the Guam
4 Raceway Park.

5 (iii) **Training.** Training programs for the employees of the
6 Guam Racing Federation working at the Guam Raceway Park
7 currently in effect.

8 (iv) **Safety.** Safety programs for the employees of the
9 Guam Raceway Park currently in effect.

10 (v) **Rules.** Rules and regulations for the employees of the
11 Guam Racing Federation working at the Guam Raceway Park
12 currently in effect.

13 (vi) **Disabled.** That an affirmative action plan is in effect
14 requiring the Guam Racing Federation to hire the disabled to work
15 at the Guam Raceway Park.

16 (vii) **Finances.** That annual audited financial statements and
17 tax returns of the Guam Racing Federation are prepared and
18 available to assure compliance with the Act and these Rules.

19 (viii) **Insurance.** That the insurance furnished by the Guam
20 Racing Federation covers general liability for the operations and
21 facilities of the Guam Raceway Park.

22 (ix) **Other Records.** That any other records or documents are
23 made available which GEDA requires to determine whether the
24 Guam Racing Federation is in compliance with the Act and these
25 Rules.

1 approving the same, make it available to the public. If the Administrator
2 does *not* approve such report, the same shall be revised until it meets the
3 Administrator's objections.

4 (b) **Status Report.** A detailed status report of the construction
5 activities of the Guam Racing Federation after completion of each
6 construction phase of the Guam Raceway Park, pursuant to the Master
7 Plan, shall be made for review by the Board at its next regularly scheduled
8 monthly meeting following completion of such phase.

9 (c) **Mitigation Plans.** *Before* commencing construction of the
10 Guam Raceway Park, the Guam Racing Federation shall submit to GEDA
11 its Guam Environmental Protection Agency ("GEPA") report detailing its
12 Plan ("Plan") for mitigating environmental damage to the area of the
13 Guam Raceway Park, which Plan shall *not* be submitted to GEDA until it
14 has been approved by GEPA.

15 **Cessation of Operations.**

16 **Section 1.08.** When it has been determined by GEDA that under the
17 provisions of §10 of the Act the Guam Racing Federation can no longer manage
18 and operate the Guam Raceway Park, or that the Guam Racing Federation has
19 violated any of the terms of the Act or of these Rules, the Administrator shall
20 notify the Guam Racing Federation in writing of the specifics of non-compliance
21 and provide a reasonable time limit, *not less than* ninety (90) days, within which
22 to correct the discrepancy. Should the Guam Racing Federation *not* correct the
23 discrepancy, the Guam Racing Federation shall forthwith assign the rights to
24 occupy and use the property on which the Guam Raceway Park is located back
25 to the CLTC, which shall continue the operation of the Guam Raceway Park for

1 the remainder of the twenty (20) year license given by the CLTC for the use of
2 such property.

3
4 **PART 2.**

5 **RULES ON THE ISSUANCE OF TAX CREDITS FOR**
6 **THE GUAM RACEWAY PARK.**

7 **Applications for Tax Credit.**

8 **Section 2.01.** A supplier of building materials or supplies, or a supplier
9 of labor or of supervision used in the construction of the Guam Raceway Park
10 may apply for a Certificate by submitting the following to GEDA:

11 (a) **Application.** A completed application on GEDA Form TAI-
12 01, which includes a certified estimate for cost of supplies, materials or
13 services to be provided under the applicant's contract or subcontract with
14 respect to the construction of the Guam Raceway Park.

15 (b) **License.** A copy of the applicant's Guam business license.

16 (c) **Authorization.** A contract or subcontract approved by the
17 Guam Racing Federation for the applicant to provide materials, supplies,
18 labor or supervision for the construction of the Guam Raceway Park.

19 (d) **Filing Fee.** A filing fee of One Hundred Fifty Dollars (\$150.00).

20 (e) **Inspection fee.** An initial inspection fee of Two Hundred
21 Dollars (\$200.00). Following such submission, such application shall be
22 reviewed and acted upon by the Administrator without either a public
23 hearing or the filing of a notice of application, as provided in §2.02.

24 **Authority of Administrator.**

1 confirming the amount expended on such construction phase by the
2 holder; *and*

3 (iv) a certificate from the engineer or architect retained in
4 accordance with Paragraph (e) of §1.05 of these Rules that the work
5 for which the tax credit is sought has been completed in a
6 workmanlike manner.

7 **Section 2.05.** The Administrator shall review the completed tax credit
8 application, and in fifteen (15) days take one (1) of the following two (2) actions:

9 (a) **Credit.** *If* the Administrator determines that the terms and
10 conditions stipulated in the Certificate have been met, GEDA shall forward
11 to the Department of Revenue and Taxation ("Department"), a tax credit
12 memorandum with a schedule detailing the tax credit to be given over *not*
13 *more than* a three (3) year period determined on a straight-line basis or
14 under a three (3) year amortization schedule, whichever method results in
15 a smaller tax credit.

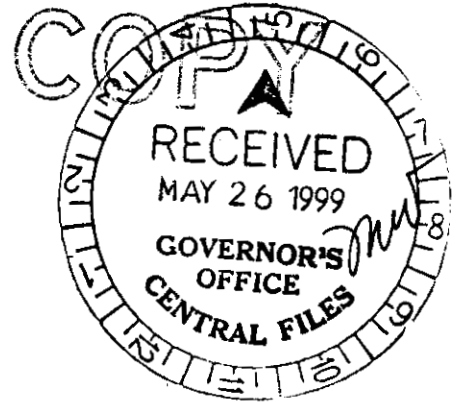
16 (b) **No Credit.** When it has been determined by the
17 Administrator that the terms and conditions set out in the Certificate, or
18 that one (1) or more provisions of the Act or of these Rules, have *not* been
19 adhered to, then the Administrator shall notify the Certificate holder in
20 writing of the specifics of the non-compliance and provide a reasonable
21 time limit within which to correct the discrepancy. *If* the discrepancy is
22 corrected, the Administrator shall forward the tax credit memorandum to
23 the Department as provided in Paragraph (a), *supra*, but if *not* corrected, the
24 Administrator shall *not* so forward to the Department any tax credit
25 whatsoever.



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

May 26, 1999

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



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill Nos. 118 (COR) and 133 (COR) and Substitute Bill Nos. 51 (COR), 121 (COR) and 145 (COR) which were passed by *I Mina'Bente Singko Na Liheslaturan Guåhan* on May 24, 1999.

Sincerely,

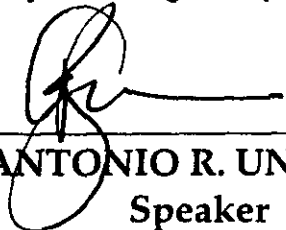
JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (5)

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 Substitute Bill No. 145 (COR), "AN ACT TO *ADD* CHAPTER 77 TO TITLE 12 OF THE GUAM CODE ANNOTATED AND TO *AMEND* §7 OF P.L. NO. 24-141, RELATIVE TO SPECIAL PROJECTS AND ACTIVITIES OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY AND THE ADMINISTRATIVE RULES FOR THE MOTOR RACEWAY," was on the 24th day of May, 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'lahen Guahan* this 26th day of May, 1999,
at 4:50 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

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

Bill No. 145 (COR)

As Amended by the Committee on Tourism,
Economic Development and Parks, and
as substituted and amended on the Floor.

Introduced by:

L. F. Kasperbauer
A. C. Lamorena, V
A. C. Blaz
K. S. Moylan
F. B. Aguon, Jr.
E. C. Bermudes
J. M.S. Brown
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**AN ACT TO ADD CHAPTER 77 TO TITLE 12 OF THE
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AND ACTIVITIES OF THE GUAM ECONOMIC
DEVELOPMENT AUTHORITY AND THE
ADMINISTRATIVE RULES FOR THE MOTOR
RACEWAY.**

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

2 **Section 1.** Chapter 77 is hereby *added* to Title 12 of the Guam Code
3 Annotated to read as follows:

4 **"CHAPTER 77.**

5 **SPECIAL PROJECTS AND ACTIVITIES OF THE**
6 **GUAM ECONOMIC DEVELOPMENT AUTHORITY.**

7 **ARTICLE 1.**

8 **ADMINISTRATIVE PROVISIONS.**

9 **Section 77101. Scope.** The provisions of this Chapter shall
10 apply to any projects or activities of the Guam Economic Development
11 Authority authorized by public law, but *not* set out or identified in its basic
12 organizational charter contained in Chapter 50 of this Title.

13 **Section 77102. Rules and Regulations.** All such special
14 projects or activities shall be administered by rules and regulations
15 developed under the requirements of the Administrative Adjudication Law
16 ('AAL'). Such rules and regulations may be developed either by the Guam
17 Economic Development Authority acting alone or jointly with one (1) or
18 more other agencies of the government of Guam, *unless* such joint
19 development is expressly prohibited by Public Law.

20 **ARTICLE 2.**

21 **GUAM RACEWAY PARK.**

22 **Section 77201. Applicability of Article.** The provisions of this
23 Article are applicable to the Guam Raceway Park as authorized by the Act.

24 **Section 77202. Credits Against Business Privilege Tax.** To

1 the extent that any business licensed to do business on Guam contributes
2 the cost of design, labor and materials to design and/or construct the
3 Guam Raceway Park, such business must be certified by GEDA to be
4 eligible for any credits against Business Privilege Taxes as authorized by
5 the Act. The maximum amount of such credits authorized on an annual
6 basis shall also be certified by GEDA *prior to* expenditures by any licensed
7 business for the Guam Raceway Park. The maximum amount of credits
8 authorized shall be subject to the limitations set forth in §9 of the Act.

9 **Section 77203. Limits of Liability.** As the Guam Racing
10 Federation having received a license from the Chamorro Land Trust
11 ('Trust') to use Trust property for the Guam Raceway Park, the Trust shall
12 *not* be liable for any claims resulting from the use of such property.
13 Furthermore, consistent with the provisions of §5 of the Act, neither GEDA,
14 the Department of Revenue and Taxation, nor any other agency of the
15 government of Guam shall be liable for any claims arising from the use of
16 such property."

17 **Section 2.** Section 7 of Public Law Number 24-141 is hereby *amended* to
18 read as follows:

19 "Section 7. **Administrative Rules and Regulations.** The Guam
20 Economic Development Authority shall develop administrative rules and
21 regulations for the construction and monitoring of the project contained
22 herein under the provisions of the Administrative Adjudication Law. The
23 rules and regulations may contain limitations on the amount of tax credits
24 that can be applied in a given tax year."

25 **Section 3. Approval of Administrative Rules and Regulations.** The

1 Administrative Rules and Regulations adopted by the Board of Directors of the
2 Guam Economic Development Authority on February 26, 1999, and as appended
3 hereto, are hereby *approved* pursuant to the provisions of Public Law Number 24-
4 141 and Chapter 9 of Title 5 of the Guam Code Annotated.

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

1 **RULES AND REGULATIONS OF**
2 **THE GUAM ECONOMIC DEVELOPMENT AUTHORITY**
3 **ON THE OPERATION OF THE GUAM RACEWAY PARK ,**
4 **AND ON THE ISSUANCE OF TAX CREDITS**
5 **FOR IT'S DESIGN AND CONSTRUCTION.**

6
7 **PART 1.**
8 **GENERAL RULES OF COMPLIANCE FOR THE**
9 **GUAM RACEWAY PARK.**
10 **(Public Law Number 24-141)**

11
12 **Purpose of Rules.**

13 **Section 1.01.** The purpose of the rules and regulations set out in Parts
14 1 and 2 hereof ("Rules") is to set out the administrative procedures for
15 constructing the Guam Raceway Park and for issuing a tax credit certificate
16 ("Certificate") to applicants therefor pursuant to the provisions of §2 of Public
17 Law Number 24-141, which entitle one to a credit against the tax imposed under
18 Article 2 of the Guam Business Privilege Tax Law for the cost of the design, labor,
19 supplies or materials that one contributes to the construction and development
20 of the Guam Raceway Park.

21 **Definitions.**

22 **Section 1.02.** In these Rules, the following terms shall have the
23 following meanings:

24 **(a) Act.** "*Act*" means Public Law Number 24-141, authorizing tax
25 credits and exemptions for work done on the Guam Raceway Park.

26 **(b) Administrator.** "*Administrator*" means the Administrator of
27 GEDA, as described in §50106 of Chapter 50 of Title 12 of the Guam Code
28 Annotated.

1 (c) **Beneficiary.** “Beneficiary” means the recipient of a
2 Certificate.

3 (d) **Board.** “Board” means the board of directors of GEDA.

4 (e) **Business Privilege Tax.** “Business privilege tax,” also known
5 as the gross receipt tax, means that tax described and assessed under
6 Chapter 26 of Title 11 of the Guam Code Annotated.

7 (f) **Certificate.** “Certificate” means a certificate issued by
8 GEDA to a business contributing the cost of design, development, labor,
9 supplies or materials used in the construction of the Guam Raceway Park.

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11 Commission, a commission with the government of Guam established
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13 (h) **Contractor or Subcontractor.** “Contractor” or
14 “Subcontractor” means a business entity licensed as such which contracts or
15 subcontracts for the construction of the Guam Raceway Park.

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17 supplies, or the out-of-pocket cost of design or labor plus five percent (5%)
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19 of the funds borrowed to carry out a contract for the construction of the
20 Guam Raceway Park.

21 (j) **Director.** “Director” means the Director of Revenue and
22 Taxation of the government of Guam, as described in §1102 of Title 11 of
23 the Guam Code Annotated. The Director is also the Tax Commissioner
24 described in Chapter 26 of such title.

25 (k) **GEDA.** “GEDA” means the Guam Economic Development

1 Authority, a public corporation established under Chapter 50 of Title 12 of
2 the Guam Code Annotated.

3 (l) **Guam Raceway Park.** *"Guam Raceway Park"* means that motor
4 vehicle racing facility created by the Guam Racing Federation pursuant to
5 the Act.

6 (m) **Guam Racing Federation.** *"Guam Racing Federation"* means
7 that Guam not-for-profit corporation which will operate the Guam
8 Raceway Park under the Act.

9 (n) **Master Plan.** *"Master Plan"* means the construction time line
10 drafted by the Guam Racing Federation which (i) describes and identifies
11 in reasonable detail all of the phases of the construction of the Guam
12 Raceway Park; (ii) identifies the contractors and subcontractors, if and as
13 known, to be employed in such construction; and (iii) details the tax credits
14 authorized in Part 2 of these Rules to be applied for in each phase of the
15 construction of the Guam Raceway Park, as projected by the Guam Racing
16 Federation.

17 (o) **Materials.** *"Materials"* means goods that become a permanent
18 part of the Guam Raceway Park.

19 (p) **Supplies.** *"Supplies"* means things other than labor or
20 supervision which are consumed in, but do not become a physical part of
21 the Guam Raceway Park.

1 **Purpose of Part I.**

2 **Section 1.03.** The purpose of this Part of the Rules is to establish
3 pursuant to §50103 of Chapter 50 of Title 12 of the Guam Code Annotated, the
4 procedures for monitoring the development of the Guam Raceway Park and
5 certifying its compliance with the terms and conditions of the Act.

6 **Responsibilities of GEDA; Master Plan.**

7 **Section 1.04. (a) Monitoring.** The Administrator shall be
8 responsible for the management and administration of the GEDA
9 compliance program with respect to the Guam Raceway Park. The
10 Administrator may delegate inspections, monitoring and reports
11 thereunder to a GEDA management and compliance officer.

12 **(b) Master Plan.** The Guam Racing Federation shall submit to
13 the Administrator its Master Plan, executed by it and certified to be true
14 and correct by its president and secretary within ninety (90) days after the
15 approval of these Rules by *I Maga'lahaen Guahan*. Should the Guam Racing
16 Federation *not* be able to meet the deadline for reasons beyond its control,
17 a written request for an additional ninety (90) day extension shall be
18 submitted to the Administrator for the Administrator's consideration,
19 which request shall *not* be unreasonably denied.

20 **Responsibilities of the Guam Racing Federation.**

21 **Section 1.05.** Under the Act and these Rules, the following are
22 required of the Guam Racing Federation:

23 **(a) Workforce U.S. Citizens.** At all times at least seventy-
24 five percent (75%) of all workers in all employment categories of the
25 workforce of the Guam Racing Federation at the Guam Raceway Park

1 shall be either United States citizens or permanent residents of the
2 United States. All such workers shall be paid no less than prevailing
3 wage rates; provided, however, that for good cause shown GEDA
4 may, from time to time, grant temporary exemptions from such
5 requirement for limited periods of time.

6 (b) **Federation to Control Raceway.** The Guam Racing
7 Federation shall be responsible for maintaining operational control
8 of both construction and the operation of the Guam Raceway Park.

9 (c) **No Leases.** In no case shall the Guam Raceway
10 Park or any portion of its property or assets be leased, licensed or
11 assigned without the *prior* express written approval of CLTC. The
12 terms "leased, licensed, assigned or collateralize" do *not* include
13 entering into a concession agreement whereby a concessionaire sells
14 goods, services or sponsors of any other advertising that may be
15 appropriate within the Guam Raceway Park. Copies of such
16 concession agreements shall be filed with the CLTC.

17 (d) **Local Preference.** Shall be in accordance with the
18 Policy as outlined in §5008 of Article 1, Chapter 5 of Title 5 of the
19 Guam Code Annotated.

20 (e) **Engineer/Architect.** The Guam Racing Federation
21 shall retain the services of a licensed professional engineer or
22 architect to monitor the construction of the Guam Raceway Park and
23 to certify the completion of the various phases of the construction so
24 as to authorize payments therefor. Copies of the reports of such
25 engineer or architect to the Guam Racing Federation shall be filed

1 with GEDA and the CLTC.

2 (f) **Public Notice.** The Guam Racing Federation shall give
3 public notice of the proposed construction of the Guam Raceway
4 Park by placing at least two (2) notices in a newspaper of general
5 circulation on Guam soliciting bids or proposals from contractors to
6 carry out such construction.

7 **Inspections.**

8 **Section 1.06.** The Guam Raceway Park shall be subject to the following
9 inspection requirements:

10 (a) **No Maximum Number.** At a minimum, GEDA shall
11 conduct semi-annual on-site inspections of the Guam Raceway Park, but
12 may conduct as many examinations as the Administrator deems necessary.

13 (b) **End of Fiscal Year.** At least one (1) of such inspections shall
14 be scheduled by GEDA to coincide with the ending of the fiscal year of the
15 Guam Racing Federation.

16 (c) **Construction.** When the Guam Raceway Park is under
17 construction, an inspection shall be conducted by GEDA within thirty (30)
18 to sixty (60) days *prior to* the completion of each phase of construction and
19 a final inspection shall be carried out within thirty (30) days after the
20 completion of all phases of construction of the Guam Raceway Park.

21 (d) **Records.** During the course of all inspections, the Guam
22 Racing Federation shall provide for review by GEDA copies of all its
23 records and documents in order for GEDA to monitor the following:

24 (i) **Adherence to the Act and the Rules.** Adherence to
25 the Act and these Rules by the Guam Racing Federation and whether

1 violations thereof have been corrected, or are being corrected.

2 (ii) **Employment.** Employment levels and classification of
3 the employees of the Guam Racing Federation working at the Guam
4 Raceway Park.

5 (iii) **Training.** Training programs for the employees of the
6 Guam Racing Federation working at the Guam Raceway Park
7 currently in effect.

8 (iv) **Safety.** Safety programs for the employees of the
9 Guam Raceway Park currently in effect.

10 (v) **Rules.** Rules and regulations for the employees of the
11 Guam Racing Federation working at the Guam Raceway Park
12 currently in effect.

13 (vi) **Disabled.** That an affirmative action plan is in effect
14 requiring the Guam Racing Federation to hire the disabled to work
15 at the Guam Raceway Park.

16 (vii) **Finances.** That annual audited financial statements and
17 tax returns of the Guam Racing Federation are prepared and
18 available to assure compliance with the Act and these Rules.

19 (viii) **Insurance.** That the insurance furnished by the Guam
20 Racing Federation covers general liability for the operations and
21 facilities of the Guam Raceway Park.

22 (ix) **Other Records.** That any other records or documents are
23 made available which GEDA requires to determine whether the
24 Guam Racing Federation is in compliance with the Act and these
25 Rules.

1 approving the same, make it available to the public. If the Administrator
2 does *not* approve such report, the same shall be revised until it meets the
3 Administrator's objections.

4 (b) **Status Report.** A detailed status report of the construction
5 activities of the Guam Racing Federation after completion of each
6 construction phase of the Guam Raceway Park, pursuant to the Master
7 Plan, shall be made for review by the Board at its next regularly scheduled
8 monthly meeting following completion of such phase.

9 (c) **Mitigation Plans.** *Before* commencing construction of the
10 Guam Raceway Park, the Guam Racing Federation shall submit to GEDA
11 its Guam Environmental Protection Agency ("GEPA") report detailing its
12 Plan ("Plan") for mitigating environmental damage to the area of the
13 Guam Raceway Park, which Plan shall *not* be submitted to GEDA until it
14 has been approved by GEPA.

15 **Cessation of Operations.**

16 **Section 1.08.** When it has been determined by GEDA that under the
17 provisions of §10 of the Act the Guam Racing Federation can no longer manage
18 and operate the Guam Raceway Park, or that the Guam Racing Federation has
19 violated any of the terms of the Act or of these Rules, the Administrator shall
20 notify the Guam Racing Federation in writing of the specifics of non-compliance
21 and provide a reasonable time limit, *not less than* ninety (90) days, within which
22 to correct the discrepancy. Should the Guam Racing Federation *not* correct the
23 discrepancy, the Guam Racing Federation shall forthwith assign the rights to
24 occupy and use the property on which the Guam Raceway Park is located back
25 to the CLTC, which shall continue the operation of the Guam Raceway Park for

1 the remainder of the twenty (20) year license given by the CLTC for the use of
2 such property.

3
4 **PART 2.**

5 **RULES ON THE ISSUANCE OF TAX CREDITS FOR**
6 **THE GUAM RACEWAY PARK.**

7 **Applications for Tax Credit.**

8 **Section 2.01.** A supplier of building materials or supplies, or a supplier
9 of labor or of supervision used in the construction of the Guam Raceway Park
10 may apply for a Certificate by submitting the following to GEDA:

11 (a) **Application.** A completed application on GEDA Form TAI-
12 01, which includes a certified estimate for cost of supplies, materials or
13 services to be provided under the applicant's contract or subcontract with
14 respect to the construction of the Guam Raceway Park.

15 (b) **License.** A copy of the applicant's Guam business license.

16 (c) **Authorization.** A contract or subcontract approved by the
17 Guam Racing Federation for the applicant to provide materials, supplies,
18 labor or supervision for the construction of the Guam Raceway Park.

19 (d) **Filing Fee.** A filing fee of One Hundred Fifty Dollars (\$150.00).

20 (e) **Inspection fee.** An initial inspection fee of Two Hundred
21 Dollars (\$200.00). Following such submission, such application shall be
22 reviewed and acted upon by the Administrator without either a public
23 hearing or the filing of a notice of application, as provided in §2.02.

24 **Authority of Administrator.**

1 confirming the amount expended on such construction phase by the
2 holder; *and*

3 (iv) a certificate from the engineer or architect retained in
4 accordance with Paragraph (e) of §1.05 of these Rules that the work
5 for which the tax credit is sought has been completed in a
6 workmanlike manner.

7 **Section 2.05.** The Administrator shall review the completed tax credit
8 application, and in fifteen (15) days take one (1) of the following two (2) actions:

9 (a) **Credit.** *If the Administrator determines that the terms and*
10 *conditions stipulated in the Certificate have been met, GEDA shall forward*
11 *to the Department of Revenue and Taxation ("Department"), a tax credit*
12 *memorandum with a schedule detailing the tax credit to be given over* *not*
13 *more than a three (3) year period determined on a straight-line basis or*
14 *under a three (3) year amortization schedule, whichever method results in*
15 *a smaller tax credit.*

16 (b) **No Credit.** When it has been determined by the
17 Administrator that the terms and conditions set out in the Certificate, or
18 that one (1) or more provisions of the Act or of these Rules, have *not* been
19 adhered to, then the Administrator shall notify the Certificate holder in
20 writing of the specifics of the non-compliance and provide a reasonable
21 time limit within which to correct the discrepancy. *If the discrepancy is*
22 *corrected, the Administrator shall forward the tax credit memorandum to*
23 *the Department as provided in Paragraph (a), supra, but if not corrected, the*
24 *Administrator shall not so forward to the Department any tax credit*
25 *whatsoever.*

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 5/24/99

VOTING SHEET

5 Bill No. 145 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.					✓
BLAZ, Anthony C.	✓				✗
BROWN, Joanne M.S.	✓				
CALVO, Eduardo 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.	✓				

TOTAL

13 0 0 0 2

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



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

FILE
COPY

April 22, 1999

(DATE)

Memorandum

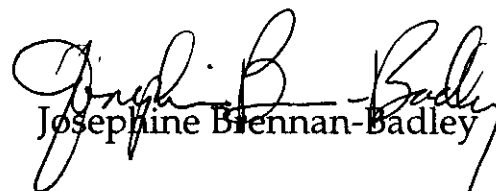
To: Senator LAWRENCE F. KASPERBAUER

From: Clerk of the Legislature

Subject: Report on Bill No. 145 (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. 145 (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 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. 145, An Act to Add Chapter 77 to Title 12, Guam Code Annotated, on Special Projects and Activities of the Guam Economic Development Authority to Grant Conditional Use Permit to the Guam Racing Federation So it May Carry Out the Provisions of Public Law 24-141 on Lot No. 7161-R1, Yigo, and to Amend Section 7 of Public Law 24-141 on Administrative Rules for the Motor Raceway Park**, 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 Guåhan
(Twenty-Fifth Guam Legislature)

VC 3 SHEET ON
BILL NO. 145

AN ACT TO ADD CHAPTER 77 TO TITLE 12, GUAM CODE ANNOTATED, ON SPECIAL PROJECTS AND ACTIVITIES OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO GRANT CONDITIONAL USE PERMIT TO THE GUAM RACING FEDERATION SO IT MAY CARRY OUT THE PROVISIONS OF PUBLIC LAW 24-141 ON LOT NO. 7161-R1, YIGO, AND TO AMEND SECTION 7 OF PUBLIC LAW 24-141 ON ADMINISTRATIVE RULES FOR THE MOTOR RACEWAY PARK.



RECOMMENDATION TO

Committee Members	Signature	To pass	Not to pass	Abstain	Place in Inactive File
Senator Alberto "Tony" Lamorena Chairperson		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Joanne Brown Vice Chairperson		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Speaker Antonio Unpingco		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Anthony Blaz		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Mark Forbes		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carlotta Leon Guerrero		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Kaleo Moylan		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator John Salas		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Simon Sanchez II		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Frank Aguon, Jr.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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. 145

An Act to Add Chapter 77 to Title 12, Guam Code Annotated, on Special Projects and Activities of the Guam Economic Development Authority to Grant Conditional Use Permit to the Guam Racing Federation So it May Carry Out the Provisions of Public Law 24-141 on Lot No. 7161-R1, Yigo, and to Amend Section 7 of Public Law 24-141 on Administrative Rules for the Motor Raceway Park

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

Senator Frank B. Aguon, Jr.

COMMITTEE REPORT

Bill No. 145

An Act to Add Chapter 77 to Title 12, Guam Code Annotated, on Special Projects and Activities of the Guam Economic Development Authority to Grant Conditional Use Permit to the Guam Racing Federation So it May Carry Out the Provisions of Public Law 24-141 on Lot No. 7161-R1, Yigo, and to Amend Section 7 of Public Law 24-141 on Administrative Rules for the Motor Raceway Park

INTRODUCTION

The Committee on Tourism, Economic Development and Parks conducted a Public Hearing 9:13 a.m. Wednesday, March 31, 1999 in the Public Hearing Room of the Guam Legislature Temporary Bldg. in Hagatña.

Committee Members Present: Senator Alberto C. Lamorena, V., Chairman
Senator Frank B. Aguon, Jr.

Other Senators Present: Senator Ben C. Pangelinan
Senator Marcel C. Camacho

Witnesses:

Mr. Henry Simpson, President Guam Racing Federation	Mr. Jonathan Aguon
Mr. Ed Cruz, Jr.	Mr. Chris Bejado
Mr. Joey Crisostomo	Mr. Frank Rios
Mr. Dennis Quinones	Mrs. Pat Santos
	Mr. Joe Garrido

Mr. Ed Untalan,
Administrator, Guam Economic Development Authority

SUMMARY OF TESTIMONY

Henry Simpson, President of the Guam Racing Federation provided the committee with oral testimony in support of the bill.

Jonathan Aguon, provided the committee with oral testimony in support of Bill No.145.

Chris Bejado, provided the committee with oral testimony in support of the bill, and asked that the legislature pass Bill No. 145.

Ed Cruz, Jr., provided the committee with oral testimony in support of the bill. Mr. Cruz is one who has been associated with auto racing, and one who can say that he has experienced auto racing on Guam, as well as in the U.S. Mr. Cruz expressed his sentiments to the committee with respect to need for the Guam Raceway Park. Mr. Cruz informed the members that during the mid 70s, he was instrumental in organizing Guam's first legal drag race on Marine Drive. He explained to the committee that the interest in drag and motor cross racing has increased since the 70s. Mr. Cruz concluded by saying that by opening a racetrack, revenue would be generated for the economy, and jobs would be made available for our local people.

Frank Rios, provided the committee with oral testimony in support of the bill.

Joey Crisostomo, provided the committee with oral testimony in support of the bill. Mr. Crisostomo state that the benefits to having a race track on Guam would be the revenues that the track would generate by means of events that are held at the track in addition to the races. Additionally, the fact that we have a track would invite other racers off-island, such as Japan to come to Guam to test drive their performance vehicles. The Guam Raceway Park could play a major role in the stability of our economy and our tourism industry.

Pat Santos, provided the committee with oral testimony in support of the bill. Ms. Santos testified as the mother of a motor cross racer, and as a person who has been involved with motor cross racing for over 15 years. Ms. Santos informed the members that the motor cross association had a track to use before owners decided to subdivide the property. Now, the association has no track. However, despite the fact that the Guam Team had no track for practice runs, the Guam Team competed in the Saipan motor cross race and came home with the trophies. Ms. Santos concluded that the construction of race track would benefit race enthusiasts as well as spectators. Ms.

Santos urged members to pass the bill.

Dennis Quinones, provided the committee with oral testimony in support of the bill. Mr. Quinones is a motor cross enthusiast who applauds the efforts of the government to establish a legal racetrack. Mr. Quinones stated that the existence of a track would be beneficial to individuals who are interested in racing. He further stated that the race park would create jobs and other opportunities

Joe Garrido, provided the committee with oral testimony in support of the bill. Mr. Garrido informed the committee that he was not a drag racer, however, he strongly feels that with the availability of a racetrack facility, there would be an end to all the illegal drag racing.

Ed, Untalan, GEDA Administrator, provided with the committee with oral testimony in support of the bill.

There being no other witnesses appearing on the bill, the Chairman declared Bill No. 145 duly publicly heard.

COMMITTEE FINDINGS

The committee finds that all the testimony received by both the government and private witnesses were in support of the bill. The committee further finds that there are some minor amendments that would need to be made to the proposed rules and regulations governing the operations of the Guam Raceway Park. The intent of the committee is to make the necessary amendments and report out the bill to the full Legislature.

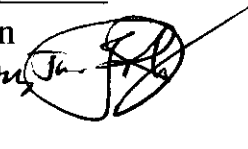
COMMITTEE RECOMMENDATIONS

The Committee on Tourism, Economic Development and Parks hereby reports out Bill No. 145 to I Mina' Bente Singko Na Liheslaturan Guåhan with the recommendation **To Pass, as amended.**

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

Bill No. 145 (COR)
as Amended by the Committee on
Tourism, Economic Development and Parks

Introduced by:

L.F. Kasperbauer
A.C. Lamorena, V
A.C. Blaz
K.S. Moylan
F.B. Aguon, Jr. 

AN ACT TO ADD CHAPTER 77 TO TITLE 12, GUAM CODE ANNOTATED, ON SPECIAL PROJECTS AND ACTIVITIES OF THE GUAM ECONOMIC DEVELOPMENT AUTHORITY TO GRANT A CONDITIONAL USE PERMIT TO THE GUAM RACING FEDERATION SO IT MAY CARRY OUT THE PROVISIONS OF PUBLIC LAW 24-141 ON LOT NO. 7161-R1, YIGO, AND TO AMEND SECTION 7 OF PUBLIC LAW 24-141 ON ADMINISTRATIVE RULES FOR THE MOTOR RACEWAY.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Chapter 77 is hereby added to Title 12, Guam Code

Annotated to read:

“CHAPTER 77.

**SPECIAL PROJECTS AND ACTIVITIES OF THE
GUAM ECONOMIC DEVELOPMENT AUTHORITY**

ARTICLE 1.

ADMINISTRATIVE PROVISIONS.

§77101. Scope. The provisions of this Chapter shall apply to any projects or activities of the Guam Economic Development Authority authorized by public law but not set out or identified in its basic organizational charter

1 contained in Chapter [~~13~~] 50 of this Title.

2 **§77102. Rules and Regulations.** All such special projects or
3 activities shall be administered by rules and regulations developed under the
4 requirements of the Administrative Adjudication Law (the “AAL”). Such rules
5 and regulations may be developed either by the Guam Economic Development
6 Authority acting alone or jointly with one or more other agencies of the
7 Government of Guam unless such joint development is expressly prohibited by
8 Public Law.

9 **ARTICLE 2.**

10 **GUAM RACEWAY PARK.**

11 **§77201. Applicability of Article.** The provisions of this Article are
12 applicable to the Guam Raceway Park as authorized by the Act.

13 **§77202. Credits Against Business Privilege Tax.** To the extent that
14 any business licensed to do business on Guam contributes to the cost of design,
15 labor and materials to design and/or construct the Guam Raceway Park, such
16 business must be certified by GEDA to be eligible for any credits against
17 Business Privilege Taxes as authorized by the Act. The maximum amount of
18 such credits authorized on an annual basis shall also be certified by GEDA prior
19 to expenditures by any licensed business for the Guam Raceway Park. The
20 maximum amount of credits authorized shall be subject to the limitations set
21 forth in Section 9 of the Act.

22 **§77203. Limits of Liability.** As the Guam Racing Federation having
23 received a license from the Chamorro Land Trust (the “Trust”) to use Trust
24 property for the Guam Raceway Park, the Trust shall not be liable for any claims
25 resulting from the use of such property. Furthermore, consistent with the

1 provisions of Section 5 of the Act, neither GEDA, the Department of Revenue
2 and Taxation nor any other agency of the Government of Guam shall be liable
3 for any claims arising from the use of such property.

4 **Section 2. Conditional Use Permit on a Portion of Basic Lot No. 7161 for**
5 **the Guam Racing Federation.** *I Liheslaturan Guåhan* hereby grants “Conditional
6 Use” approval for the Guam Racing Federation to construct and operate a racetrack
7 facility on a portion of Lot No. 7161-R1 in Yigo, Guam, as provided in the Act, such
8 portion being described in Exhibit A of the license agreement, effective as of June 1,
9 1998, between the Chamorro Land Trust Commission and the Guam Racing
10 Federation.

11 **Section 3. [~~Amendment of Section 7 of the Act.~~] Section 7 of Public Law**
12 **24-141 is hereby amended to read as follows:**

13 “**Section 7. Administrative Rules and Regulations.** The Guam
14 Economic Development Authority [~~and the Department of Revenue and~~
15 ~~Taxation~~] shall develop administrative rules and regulations for the construction
16 and monitoring of the project contained herein under the provisions of the
17 Administrative Adjudication [Act] Law. [~~The rules and regulations may contain~~
18 ~~limitations on the amount of tax credits that can be applied in a given tax year.~~”

19 **Section 4. Approval of Administrative Rules and Regulations.** The
20 Administrative Rules and Regulations adopted by the Board of Directors of the Guam
21 Economic Development Authority on February 25, 1999 and as appended hereto are
22 hereby approved pursuant to the provisions of Public Law 24-141 and Chapter 9 of
23 Title 5, Guam Code Annotated.

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

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5

**RULES AND REGULATIONS OF
THE GUAM ECONOMIC DEVELOPMENT AUTHORITY
ON THE OPERATION OF THE GUAM RACEWAY PARK
AND ON THE ISSUANCE OF TAX CREDITS
FOR IT'S DESIGN AND CONSTRUCTION**

6
7
8
9

**PART 1
GENERAL RULES OF COMPLIANCE FOR THE
GUAM RACEWAY PARK
(PUBLIC LAW 24-141)**

10

Purpose of Rules

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17

§1.01. The purpose of the rules and regulations set out in Parts 1 and 2 hereof (the “Rules”) is to set out the administrative procedures for constructing the Guam Raceway Park and for issuing a tax credit certificate (“Certificate”) to applicants therefor pursuant to the provisions of §2 of Public Law 24-141, which entitle one to a credit against the tax imposed under Article 2 of the Guam Business Privilege Tax Law for the cost of the design, labor, supplies or materials that one contributes to the construction and development of the Guam Raceway Park.

18

Definitions

19

§1.02. In these Rules, the following terms shall have the following meanings:

20
21

(a) *Act*. The “Act” means Public Law 24-141, authorizing tax credits and exemptions for work done on the Guam Raceway Park.

22
23

(b) *Administrator*. “Administrator” means the Administrator of GEDA as described in §50106. Chapter 50, Title 12, Guam Code Annotated.

24

© *Beneficiary*. “Beneficiary” means the recipient of a Certificate.

25

(d) *Board*. “Board” means the board of directors of GEDA.

26
27
28

(e) *Business privilege tax*. The business privilege tax, also known as the gross receipt tax, means that tax described and assessed under Chapter 26, Title 11, Guam Code Annotated.

29
30
31

(f) *Certificate*. A “Certificate” means a certificate issued by GEDA to a business contributing the cost of design, development, labor, supplies or materials used in the construction of the Guam Raceway Park.

1 (g) **CLTC.** The “CLTC” means the Chamorro Land Trust Commission,
2 a commission with the government of Guam established under Chapter 75, Title 21,
3 Guam Code Annotated.

4 (h) **Contractor or subcontractor.** A “contractor” or “subcontractor”
5 means a business entity licensed as such which contracts or subcontracts for the
6 construction of the Guam Raceway Park.

7 (I) **Cost.** “Cost” means (I) the landed cost of materials or supplies or the
8 out-of-pocket cost of design or labor plus five percent (5%) of such cost for
9 overhead; and (ii) the cost to the contractor or subcontractor of the funds borrowed
10 to carry out a contract for the construction of the Guam Raceway Park.

11 (j) **Director.** “Director” means the Director of Revenue and Taxation of
12 the government of Guam as described in §1102, Title 11, Guam Code Annotated. He
13 is also the Tax Commissioner described in Chapter 26 of such title.

14 (k) **GEDA.** “GEDA” means the Guam Economic Development Authority,
15 a public corporation established under Chapter 50, Title 12, Guam Code Annotated.

16 (l) **Guam Raceway Park.** “Guam Raceway Park” means that motor
17 vehicle racing facility created by the Guam Racing Federation pursuant to the Act.

18 (m) **Guam Racing Federation.** “Guam Racing Federation” means that
19 Guam not-for-profit corporation which will operate the Guam Raceway Park under
20 the Act.

21 (n) **Master Plan.** “Master Plan” means the construction time line drafted
22 by the Guam Racing Federation which (I) describes and identifies in reasonable detail
23 all of the phases of the construction of the Guam Raceway Park; (ii) identifies the
24 contractors and subcontractors, if and as known, to be employed in such construction;
25 and (iii) details the tax credits authorized in Part 2 of these Rules to be applied for in
26 each phase of the construction of the Guam Raceway Park as projected by the Guam
27 Racing Federation.

28 (o) **Materials.** “Materials” means goods that become a permanent part of
29 the Guam Raceway Park.

1 (p) **Supplies.** “Supplies” means things other than labor or supervision
2 which are consumed in, [~~but~~] but do not become a physical part of the Guam
3 Raceway Park.

4 ***Purpose of Part I***

5 §1.03. The purpose of this Part of the Rules is to establish pursuant to §50103,
6 Chapter 50, Title 12, Guam Code Annotated, the procedures for monitoring the development
7 of the Guam Raceway Park and certifying its compliance with the terms and conditions of the
8 Act.

9 ***Responsibilities of GEDA; Master Plan***

10 §1.04. (a) **Monitoring.** The Administrator shall be responsible for the
11 management and administration of the GEDA compliance program with respect to the Guam
12 Raceway Park. He may delegate inspections, monitoring and reports thereunder to a GEDA
13 management and compliance officer.

14 (b) **Master Plan.** The Guam [~~Raceway~~] Racing Federation shall submit to the
15 Administrator its Master Plan, executed by it and certified to be true and correct by its
16 president and secretary within ninety (90) days after the approval of these Rules by the
17 Governor of Guam. Should the Guam Racing Federation not be able to meet the deadline for
18 reasons beyond its control, a written request for an additional ninety (90) day extension shall
19 be submitted to the Administrator for his consideration which request shall not be
20 unreasonably denied.

21 ***Responsibilities of the Guam Racing Federation***

22 §1.05. Under the Act and these Rules, the following are required of the Guam Racing
23 Federation:

24 (a) **Workforce U.S. citizens.** At all times at least seventy-five percent
25 (75%) of all workers in all employment categories of the workforce of the Guam
26 Racing Federation at the Guam Raceway Park shall be either United States citizens
27 or permanent residents of the United States. All such workers shall be paid [~~at~~] no
28 less than prevailing wage rates; **provided**, however, that for good cause shown GEDA
29 may, from time to time, grant temporary exemptions from such requirement for

1 limited periods of time.

2 (b) **Federation to control Raceway.** The Guam Racing Federation
3 shall be responsible for maintaining operational control of both construction and the
4 operation of the Guam Raceway Park.

5 © **No Leases.** In no case shall the Guam Raceway Park or any portion
6 of its property or assets be leased, licensed or assigned *without* the prior express
7 written approval of CLTC. The terms “leased, licensed, ~~or~~ assigned or collateralize”
8 do *not* include *entering* into a concession agreement whereby a concessionaire sells
9 goods, services, or sponsors of any other advertising that may be appropriate within
10 the Guam Raceway Park. Copies of such concession agreements shall be filed with
11 the CLTC.

12 (d) **Local preference.** [~~In its procurement of the goods and services~~
13 ~~necessary to construct and operate the Guam Raceway Park, the Guam Racing~~
14 ~~Federation shall at all times preference to those goods and services which are available~~
15 ~~from local Guam businesses.] Shall be in accordance with the Policy as outlined in
16 Section 5008 of Article 1, Chapter 5 of Title 5, Guam Code Annotated.~~

17 (e) **Engineer/architect.** The Guam Racing Federation shall retain the
18 services of a licensed professional engineer or architect to monitor the construction
19 of the Guam Raceway Park and to certify the completion of the various phases of the
20 construction so as to authorize payments therefor. Copies of the reports of such
21 engineer or architect to the Guam Racing Federation shall be filed with GEDA and
22 the CLTC.

23 (f) **Public notice.** The Guam Racing Federation shall give public notice
24 of the proposed construction of the Guam Raceway Park by placing at least two (2)
25 notices in a newspaper of general circulation in Guam soliciting bids or proposals
26 from contractors to carry out such construction.

27 ***Inspections***

28 **§1.06.** The Guam Raceway Park shall be subject to the following inspection requirements:

29 (a) **No maximum number.** At a minimum, GEDA shall conduct

1 semi-annual on-site inspections of the Guam Raceway Park, but may conduct as many
2 examinations as the Administrator deems necessary.

3 (b) **End of fiscal year.** At least one (1) of such inspections shall be
4 scheduled by GEDA to coincide with the ending of the fiscal year of the Guam Racing
5 Federation.

6 © **Construction.** When the Guam Raceway Park is under construction,
7 an inspection shall be conducted by GEDA within thirty (30) to sixty (60) days prior
8 to the completion of each phase of construction and a final inspection shall be carried
9 out within thirty (30) days after the completion of all phases of construction of the
10 Guam Raceway Park.

11 (d) **Records.** During the course of all inspections, the Guam Racing
12 Federation shall provide for review by GEDA copies of all its records and documents
13 in order for GEDA to monitor the following:

14 (I) **Adherence to the Act and the Rules.** Adherenceto the
15 Act and these Rules by the Guam Racing Federation and whether violations
16 thereof have been corrected or are being corrected.

17 (ii) **Employment.** Employment levels and classification of the
18 employees of the Guam Racing Federation working at the Guam Raceway
19 Park.

20 (iii) **Training.** Training programs for the employees of the
21 Guam Racing Federation working at the Guam Raceway Park currently in
22 effect.

23 (iv) **Safety.** Safety programs for the employees of the Guam
24 Raceway Park currently in effect.

25 (v) **Rules.** Rules and regulations for the employees of the Guam
26 Racing Federation working at the Guam Raceway Park currently in effect.

27 (vi) **Disabled.** That an affirmative action plan is in effect
28 requiring the Guam Racing Federation to hire the disabled to work at the
29 Guam Raceway Park.

1 (vii) **Finances.** That annual audited financial statements and tax
2 returns of the Guam Racing Federation are prepared and available to assure
3 compliance with the Act and these Rules.

4 ~~[(vii)]~~ (viii) **Insurance.** That the insurance furnished by the
5 Guam Racing Federation covers general liability for the operations and
6 facilities of the Guam Raceway Park.

7 (ix) **Other records.** That any other records or documents
8 are made available which GEDA requires to determine whether the Guam
9 Racing Federation is in compliance with the Act and these Rules.

10 (e) **Physical inspection.** The inspection process shall include a physical
11 inspection of the facilities and buildings of the Guam Raceway Park in order for
12 GEDA to determine:

13 (I) **Access.** Whether a compliance report from the
14 Department of Integrated Services for Individuals with Disabilities [~~(DSID)]~~
15 (DISID) confirming that the facilities and buildings have adequate access for
16 the [~~handicapped~~] disabled has been issued; and

17 (ii) **Conditions.** The overall conditions of the Guam Raceway
18 Park.

19 (f) **Annual fee.** The Guam Racing Federation shall be assessed and
20 annual fee of [~~Three Thousand Dollars (\$3,000)]~~ One Thousand Five Hundred
21 Dollars (\$1,500) payable to GEDA. The Board shall have the authority to reduce
22 such annual fee on a year-by-year basis upon satisfactorily showing of either undue
23 hardship or other valid cause.

24 (g) **Minimum standards.** In inspecting and monitoring construction of the
25 Guam Race Park, GEDA shall require that the Park meet the minimum standards for
26 such a raceway as established by the *Fédération Internationale de l'Automobile*
27 ("FIA").

28 **Reports**

29 **§1.07.** To assist GEDA in conjunction with its inspection, the engineer or architect

1 retained by the Guam Racing Federation pursuant to §1.05(e) of these Rules shall prepare and
2 deliver to GEDA the following reports:

3 (a) ***Inspection report.*** A concise, detailed inspection report shall be
4 prepared for GEDA within fifteen (15) days from the date of GEDA's inspection for
5 review by the Administrator, who shall after approving the same, make it available to
6 the public. If he does not approve such report, the same shall be revised until it meets
7 the Administrators objections.

8 (b) ***Status report.*** A detailed status report of the construction activities
9 of the Guam Racing Federation after completion of each construction phase of the
10 Guam Raceway Park, pursuant to the Master Plan, shall be made for review by the
11 Board at its next regularly scheduled monthly meeting following completion of such
12 phase.

13 © ***Mitigation plans.*** Before commencing construction of the Guam
14 Raceway Park, the Guam Racing Federation shall submit to GEDA its Guam
15 Environmental Protection Agency ("GEPA") report detailing its plans (the "Plan") for
16 mitigating environmental damage to the area of the Guam Raceway Park, which plan
17 shall not be submitted to GEDA until it has been approved by GEPA.

18 ***Cessation of operations***

19 **§1.08.** When it has been determined by GEDA that under the provisions of §10 of the
20 Act the Guam Racing Federation can no longer manage and operate the Guam Raceway Park,
21 or that the Guam Racing Federation has violated any of the terms of the Act or of these
22 Rules, the Administrator shall notify the Guam Racing Federation in writing of the specifics
23 of non-compliance and provide a reasonable time limit, not less than ninety (90) days, within
24 which to correct the discrepancy. Should the Guam Racing Federation not correct the
25 discrepancy, the Guam Racing Federation shall forthwith assign the rights to occupy and use
26 the property on which the Guam Raceway Park is located back to the CLTC, which shall
27 continue the operation of the Guam Raceway Park for the remainder of the twenty (20) year
28 license given by the CLTC for the use of such property.

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PART 2
RULES ON THE ISSUANCE OF TAX CREDITS FOR
THE GUAM RACEWAY PARK

Applications for tax credit

§2.01. A supplier of building materials or supplies, or a supplier of labor or of supervision used in the construction of the Guam Raceway Park may apply for a Certificate by submitting the following to GEDA:

(a) *Application.* A completed application on GEDA Form TAI-01, which includes a certified estimate for cost of supplies, materials or services to be provided under the applicant's contract or subcontract with respect to the construction of the Guam Raceway Park.

(b) *License.* A copy of the applicant's Guam business license.

(c) *Authorization.* A contract or subcontract approved by the Guam Racing Federation for the applicant to provide materials, supplies, labor or supervision for the construction of the Guam Raceway Park.

(d) *Filing fee.* A filing fee of One Hundred Fifty Dollars (\$150).

(e) *Inspection fee.* An initial inspection fee of Two Hundred Dollars (\$200). Following such submission, such application shall be reviewed and acted upon by the Administrator without either a public hearing or the filing of a notice of application, as provided in §2.02. *infra*.

Authority of Administrator

§2.02. The Administrator shall review the completed application and in fifteen (15) days either:

(a) *Approve.* Approve the application and issue the Certificates to the applicant.

(b) *Disapprove.* Disapprove the application, state the reason(s) for such disapproval, and suggest solutions to the problem(s) therewith.

On-site inspections

§2.03. From the start of the construction of the Guam Raceway Park through its

1 completion, GEDA shall conduct on-site inspections thereof. As set out in §1.06. Of Part 1
2 of these Rules, the purpose of the inspection is, among other things, to monitor the adherence
3 of the holder of a Certificate to the Act and to these Rules.

4 *Grant of tax credits*

5 **§2.04.** During the construction of each phase of the Guam Raceway Park, pursuant
6 to the Master Plan, a holder of a Certificate shall submit to GEDA monthly billing reports
7 from the contractor(s) for such construction phase. The contractor's billing report shall
8 include and describe work done by and payments made to subcontractors. After the
9 completion of such a construction phase, such holder may apply for the actual tax credits by
10 submitting to GEDA

11 (I) such holder's Certificate;

12 (ii) complete invoices detailing the dollar amounts expended by the holder on
13 such phase, such set invoices to be certified by a public accountant;

14 (iii) a financial statement prepared by a public accountant confirming the
15 amount expended on such construction phase by the holder; and

16 (iv) a certificate from the engineer or architect retained in accordance with
17 paragraph (e) of §1.05. of these Rules that the work for which the tax credit is sought
18 has been completed in a workmanlike manner.

19 **§2.05.** The Administrator shall review the completed tax credit application and in
20 fifteen (15) days take one (1) of the following two (2) actions:

21 (a) *Credit.* If the Administrator determines that the terms and
22 conditions stipulated in the Certificate have been met, GEDA shall forward to the
23 Department of Revenue and Taxation (the "Department"), a tax credit memorandum
24 with a schedule detailing the tax credit to be given over not more than a three (3) year
25 period determined on a straight-line basis or under a three (3) year amortization
26 schedule, whichever method results in a smaller tax credit.

27 (b) *No credit.* When it has been determined by the Administrator that
28 the terms and conditions set out in the Certificate, or that one (1) or more provisions
29 of the Act or of these Rules, have *not* been adhered to, then the Administrator shall

1 notify the Certificate holder in writing of the specifics of the non-compliance and
2 provide a reasonable time limit within which to correct the discrepancy. If the
3 discrepancy is corrected, the Administrator shall forward the tax credit memorandum
4 to the Department as provided in paragraph (a) *supra*, but if not corrected, the
5 Administrator shall not so forward to the Department any tax credit [~~whatever~~]
6 whatsoever.

7 *Appraisal of land*

8 [~~§2.05:~~ **§2.06.** Since the Guam Raceway Park will be constructed on land belonging
9 to the CLTC and not on private property, GEDA at this time will issue no Rule on appraising
10 the value of such private property.

11 ***

12 **N.B.** These Rules were reviewed at a public hearing thereon conducted pursuant to the
13 Administrative Adjudication Law on September 3, 1998 and were approved by GEDA by means of
14 a resolution unanimously adopted by GEDA's board of directors at a regular meeting of such board
15 duly held on February 26, 1999.