



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM

JAN 05 2003

The Honorable Joanne M. S. Brown  
Legislative Secretary  
I Mina'Bente Singko na Liheslaturan Guåhan  
Twenty-Fifth Guam Legislature  
Suite 200  
130 Aspinal Street  
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:

Enclosed please find Substitute Bill No. 442 (LS), "AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT, AND TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM", which was **signed** into law as **Public Law No. 26-174**.

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

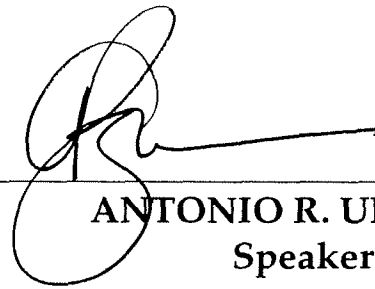
cc: The Honorable Antonio R. Unpingco  
Speaker

015

MINA'BENTE SAIS NA LIHESLATURAN GUAHAN  
2002 (SECOND) Regular Session


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

This is to certify that Substitute Bill No. 442 (LS), "AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT, AND TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM," was on the 30<sup>th</sup> day of December, 2002, duly and regularly passed.



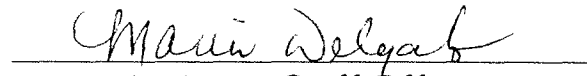
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guahan* this 31<sup>st</sup> day of December, 2002,  
at 2:30 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:



CARL T. C. GUTIERREZ  
*I Maga'lahaen Guahan*

Date: 1-5-03

Public Law No. 26-174

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2002 (SECOND) Regular Session**

**Bill No. 442 (LS)**

As substituted on the Floor  
and amended.

Introduced by:

A. R. Unpingco  
Mark Forbes  
V. C. Pangelinan  
J. F. Ada  
T. C. Ada  
F. B. Aguon, Jr.  
J. M.S. Brown  
E. B. Calvo  
F. P. Camacho  
M. C. Charfauros  
L. F. Kasperbauer  
L. A. Leon Guerrero  
K. S. Moylan  
A. L. G. Santos  
J. T. Won Pat

**AN ACT TO APPROVE THE ESTABLISHMENT  
OF A REVOLVING LINE OF CREDIT, AND TO  
ESTABLISH AND IMPLEMENT A DISASTER  
DOCUMENTATION TEAM.**

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

2        **Section 1. Title.**        This Act shall be known and shall be cited as  
3        *"The Disaster Recovery Relief Fund Act of 2002."*

4        **Section 2. Legislative Findings.** *I Liheslaturan Guåhan* has determined  
5        that in times of Disaster, such as typhoons and earthquakes, there is a critical  
6        need for access to money for emergency measures, capital and non-capital

1 improvements and replacements, renovations and general rehabilitation of  
 2 Guam's communities. This is exemplified by three (3) declarations of  
 3 emergency in the Years 2001-2002 -- the December, 2001 earthquake; Typhoon  
 4 Chata'an and Super Typhoon Pongsona. These emergencies occurred during  
 5 an extended financial period on Guam where the economy has slowed to its  
 6 worst levels in several decades.

7 In addition, funds are needed to repair or replace damaged or worn out  
 8 Guam assets *not* resulting from the disaster, but identified during the disaster  
 9 damage assessment as public purpose projects, for the mitigation of future  
 10 damage, and determined eligible for FEMA funding.

11 History has demonstrated that each disaster has devastating financial  
 12 impacts upon Guam, which are significantly aggravated when repair and  
 13 mitigation are *not* immediately undertaken. For example, the table that  
 14 follows shows the sums provided to Guam after the last three (3) disasters.

Date	Name	(1) Federal Public Assistance Projection	(2) Mitigation Projection	Matching Participation Fed/Guam	Total of (1) and (2)
12/5/01	Earthquake	\$3,182,974	\$411,640	75% / 25%	
7/6/02	Typhoon Chata'an	\$21,431,672	\$8,005,044	90% / 10%	
12/8/02	Typhoon Pongsona	\$78,760,920 (Estimated from Typhoon Paka Projection *)	\$15,707,917	75% / 25%	
		\$103,375,566	\$24,124,601		\$127,500,167

\* Note: The reason for the estimated figure used from Typhoon Paka is based in part upon preliminary damage assessment still ongoing. Also Typhoon Paka wind strength is comparable to that of Typhoon Pongsona.

1 The government of Guam (Guam), after Federally declared disaster,  
2 relies primarily upon FEMA to provide loans and grants to fund repair and  
3 replacement of the damage and destruction. The schedule above sets forth the  
4 funds provided Guam by FEMA for recovery from the last three (3) disasters.  
5 While the amount is significant, the amount of matching participation funds  
6 obligated by Guam to pay is as low as ten percent (10%), and no greater than  
7 twenty-five percent (25%).

8 Unfortunately, over the years, through a failure at least in part of Guam  
9 and its agencies, FEMA has developed a concern over the ability of Guam to  
10 provide the supporting documentation for FEMA assistance. As a result,  
11 FEMA assistance is *not* as swift as it should be, and Guam may qualify for  
12 larger amounts of assistance with better procedures and knowledgeable  
13 assistance to insure the reliability of Guam's applications and supporting  
14 documentation.

15 *I Liheslaturan Guåhan* believes it is in the best interest of Guam to  
16 establish a law which solicits from a lender to provide an available revolving  
17 line of credit "LOC" which can be drawn upon promptly in the event of a  
18 disaster and repayable with FEMA funds when approved and distributed.  
19 The lender will be able to make loans to Guam on the reliance that FEMA will  
20 pay Guam a substantially equivalent amount necessary to repay the lender.

1           In order to assure the best probability of full reimbursement available  
2 from FEMA for recovery expenditures incurred by the government, it is in the  
3 government's interest to contract the services of a Disaster Documentation  
4 Team "DDT" which posses the necessary technical and professional expertise  
5 to assist the government in the preparation and submission of the project  
6 worksheets required by FEMA for funding approval and payment. The  
7 purpose of the DDT will be to review and prepare all damage documentation  
8 provided by Guam or its agencies to assure that the documentation is in order  
9 and in full compliance with all FEMA requirements *before* submission of the  
10 documentation to FEMA by Guam. The DDT will be comprised of personnel  
11 that have extensive background and knowledge of FEMA laws, rules and  
12 regulations. The government, through use of the DDT, will be in a strong  
13 position to assure FEMA compliance in securing the funding necessary for the  
14 repayment of the line of credit.

15           FEMA requires that Guam provide a percentage of matching funds for  
16 FEMA grant assistance. By way of this Act, the government is authorized to  
17 access the immediate cash needs for the matching funds Guam needs for  
18 expeditious recovery with an assignment of § 30 funds, or other assets of  
19 Guam for the repayment of the recovery funds needs and *not* covered by  
20 FEMA reimbursements.

21           By using the process implemented by this Act, Guam will have reduced  
22 its risk for unfunded liability on the line of credit, *except* for the administrative  
23 costs, interest charges, the local matching funds required and miscellaneous  
24 expenses *not* reimbursable by FEMA, since the DDT will be in place to

1 provide the expertise in the preparation of the project worksheets assuring  
2 that Guam will receive a like amount from FEMA.

3 *I Liheslaturan Guåhan* will require under this Act that all amounts loaned  
4 by the lender shall have a seven (7) year maturity at an interest rate that is  
5 commercially reasonable based upon market rates. Any amounts *not* paid  
6 within seven (7) years, which includes interest, administrative cost, non-  
7 reimbursed DDT cost, together with loans of the matching funds or funding of  
8 PPP, may be rolled over into a long-term loan pursuant to another RFP, with a  
9 term *no longer than* thirty (30) years, and a commercially reasonable interest  
10 rate based on the market.

11 **Section 3. Definitions.** The following words and phrases are  
12 defined in this Act to have the same meaning throughout this Act.

13 (a) "Act" means "*The Disaster Reimbursement Act of 2002.*"

14 (b) "DAT" means the Damage Assessment Team, which is  
15 composed of any officials designated by FEMA or any other Federal  
16 agency, and members of the Guam Recovery Office, both more fully  
17 described in the Act.

18 (c) "*Disaster*" means a typhoon, earthquake, tsunami, storm  
19 water, storm surge, inordinate flooding and any other casualty usually  
20 associated with acts of God which are natural and *not* person-made, and  
21 cause widespread damage and destruction in Guam, for which the  
22 President has declared the area to have been the subject of a national  
23 disaster and eligible for FEMA aid.

24 (d) "DDT" means the Disaster Documentation Team, which  
25 shall be implemented, contracted and controlled by Guam, and will be

1           comprised of personnel that have extensive background and knowledge  
2           of FEMA laws, rule and regulations, and FEMA's custom and practice.

3           (e) "*FEMA*" means the Federal Emergency Management  
4           Agency, an agency of the Federal government, that provides emergency  
5           grants and loans, and other relief in times of disaster.

6           (f) "*GRO*" means the Guam Recovery Office.

7           (g) "*Guam*" means the government of Guam or *I Maga'laha*  
8           *Guåhan*, as indicated by the context.

9           (h) "*Lender*" means a bank, or other lending institution, that  
10          (either on-Guam or off-Guam) is successful in obtaining an award of the  
11          solicitation for a Request for Proposal pursuant to this Act. The lender  
12          shall also be responsible for the LDEA.

13          (i) "*LDEA*" means the Lender's Disaster Escrow Account,  
14          which is defined in § 8 of this Act.

15          (j) "*LOC*" means a revolving Line of Credit loan facility that  
16          can be drawn upon multiple times, replenished in whole or in part, and  
17          drawn on again.

18          (k) "*PPP*" means Public Purpose Projects which, in this Act,  
19          refers to PPPs where Guam is in critical need of money for emergency  
20          measures, capital improvements, renovations and general rehabilitation  
21          and administrative cost *not* resulting from the disaster, but identified  
22          during the disaster assessment by DAT or otherwise.

23          (l) "*RFP*" means a Request for Proposal which is a solicitation  
24          by Guam for a proposal by vendors, suppliers or service providers for



1 goods or services, and is issued by the appropriate Guam procurement  
2 authority.

3 **Section 4. Procurement for LOC, Collateral, Terms and Conditions.**

4 Upon passage of this Act, the Guam Economic Development and Commerce  
5 Authority ("GEDCA") shall *immediately* initiate preparation of solicitation  
6 documents from RFP lenders. The solicitation shall require the lender provide  
7 a credit facility in the form of a revolving LOC. The lender must be willing to  
8 accept as the only collateral for the loans the FEMA grants generated as a  
9 result of a disaster, for the Federal portion of the FEMA grant, and the § 30  
10 funds, or other assets for Guam's matching participation on the grant and  
11 interest, and incidental charges to the LOC. Nothing stated herein shall  
12 preclude Guam and the lender from entering into a different security  
13 arrangement, but Guam is *not* required to provide any more security or  
14 collateral for the loans as provided for in this Section. The interest that may  
15 be charged by the Lender for a draw down on the LOC shall have a seven (7)  
16 year maturity and bear interest at a commercially reasonable rate based on  
17 prevailing market rates.

18 Any amounts *not* paid within seven (7) years, which includes interest,  
19 administrative costs, non-reimbursed DDT cost, together with loans of the  
20 matching funds or funding of PPP, may be rolled over into a long term loan  
21 pursuant to another RFP, with a term *no longer than* thirty (30) years, and a  
22 commercially reasonable interest rate based on prevailing market rates. All  
23 terms and conditions of the line of credit, and any agreement between Guam,  
24 GRO and the lender pursuant to the RFP shall be subject to legislative  
25 approval, shall not include an indemnity of the Lender by Guam, and shall

1 provide that Guam shall not be liable for any expenditures made by the  
2 Lender which are not reimbursable by FEMA after all appeals with the  
3 exception of administrative cost and interest, nor shall Guam be liable for any  
4 negligent actions or errors of the DDT.

5 **Section 5. Purposes and Authority of the DDT in the Disaster**  
6 **Process.**

7 Guam shall issue an RFP and execute a contract for services of DDT to be  
8 activated after the declaration of a Federal disaster on Guam. The DDT,  
9 which shall be selected, organized, paid for and supervised by Guam, will  
10 perform the following duties. When a Disaster occurs, a DAT composed of  
11 Guam officials of the GRO appointed by *I Maga'lahañ Guåhan*, and Federal  
12 officials from all relevant agencies, will conduct a damage survey of Guam to  
13 examine and inspect the damage resulting from the Disaster. During the same  
14 period, the highest official of each Guam agency will cause a report to the  
15 DAT of the extent and nature of the damage to property under the control or  
16 ownership of the agency.

17 All Guam personnel involved in recovery efforts of any kind, and  
18 particularly personnel of the GRO, shall at all times fully and completely  
19 cooperate with DDT, and shall provide to DDT all forms, documents,  
20 applications, photographs, statements, narratives and information derived  
21 from contacts with FEMA and other Federal officials, as may be requested by  
22 DDT. Guam personnel working in disaster relief in any capacity shall be  
23 informed of the nature and purpose of the DDT, and the vital need for DDT's  
24 work, so that Guam can draw down as soon as possible on the LOC. After  
25 completion of the DAT or any phase of the DAT, Guam personnel shall

1 provide all information and documentation described in this Section to DDT  
2 so that all information, applications or other documents to be provided  
3 through the GRO to FEMA to support and substantiate the requested  
4 assistance, will be in full compliance with FEMA laws, rules and regulations,  
5 and custom and practice. After DDT has completed any phase of its work, the  
6 documentation and related information shall be provided to the GRO for  
7 submission to FEMA. DDT shall implement a review process so that Guam,  
8 each of its agencies and the GRO have an opportunity to review the proposed  
9 DDT final set of documentation to FEMA to assure that the submission is  
10 accurate and complete. DDT shall then recommend to the lender the amount  
11 of FEMA money reasonably expected to be obtained as a result of the disaster,  
12 or any phase of the disaster that has been assessed and submitted to FEMA.  
13 Lender shall *immediately* process for drawdown on the LOC credit facility  
14 funds in the gross amount of the sum recommended by DDT for approval,  
15 *subject* to the provisions of § 7 of this Act. The funds shall be transferred to the  
16 LDEA for distribution in check form in the amounts allocated to Guam, an  
17 agency of Guam, a service provider or a vendor or supplier. Draw down on  
18 the LOC shall require DDT to be in place.

19 **Section 6. Assignments.** To provide security for the lender for the  
20 Guam loans under this Act, Guam shall assign the corresponding FEMA  
21 funds which are expected to be received. *If* an assignment is made to FEMA  
22 by Guam, to the full extent allowed by Federal and Guam law, the proceeds of  
23 the FEMA disbursements assigned to the Lender shall be paid directly to the  
24 lender.



1 lender. Guam acknowledges and understands that at least as to the LOC  
2 loans repaid by FEMA reimbursement, that are *not* tax exempt, but the lender  
3 may obtain tax-exempt funds as a source of loans made and secured by § 30  
4 funds or other Guam assets, *if* available, so as to reduce the interest cost on the  
5 loans to Guam. *However*, Guam shall have no responsibility whatsoever for,  
6 or in connection with, repayment of the bonds, or any other requirements  
7 imposed by the bonds, which shall be the sole responsibility of the lender.  
8 There shall be no contractual privity or relation between Guam and the bond  
9 holders, or anyone else that has responsibility under the bonds.

10 **Section 11.** There is hereby appropriated annually from the General  
11 Fund the amount necessary to fully fund the debt service on the local  
12 matching funds required and incidental charges of the line of credit proceeds  
13 used for such purposes.

14 **Section 12. Severability.** *If* any provision of this Law or its  
15 application to any person or circumstance is found to be invalid or contrary to  
16 law, such invalidity shall *not* affect other provisions or applications of this  
17 Law which can be given effect without the invalid provisions or application,  
18 and to this end the provisions of this Law are severable.

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2002 (SECOND) Regular Session

Date: 12/30/02

## VOTING SHEET

Bill No. 442(LS)

Resolution No. \_\_\_\_\_

Question: without engrossment

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.					✓
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.					✓
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.					✓
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

12   0   0   0   3

CERTIFIED TRUE AND CORRECT:

\_\_\_\_\_  
Clerk of the Legislature

\* 3 Passes = No vote  
EA = Excused Absence

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
***Mina'Bente Sais Na Liheslaturan Guåhan***  
**Twenty-Sixth Guam Legislature**

December 24, 2002

Honorable Antonio R. Unpingco  
Speaker  
*Mina'Bente Sais Na Liheslaturan Guåhan*  
Hagåtña, Guam 96910

VIA: Chairperson, Committee on Rules, General Government Operations,  
Reorganization and Reform and Federal, Foreign and General Affairs

Dear Mr. Speaker:

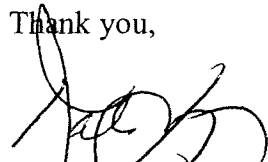
The Committee on Ways and Means, to which was referred Bill No. 442 (LS) "AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO REQUIRE THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS," has had the same under consideration, and now wishes to report back the same with the recommendation to do pass.

The Committee votes are as follows:

<u>  8  </u>	To Do Pass
<u>      </u>	Not to Pass
<u>      </u>	To Report Out
<u>      </u>	Abstain
<u>      </u>	Inactive File

A copy of the Committee Report and other pertinent documents are attached for your immediate reference and information.

Thank you,



**KALEO S. MOYLAN**

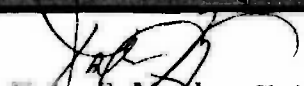
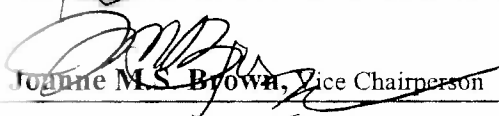
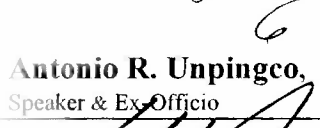
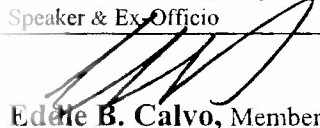
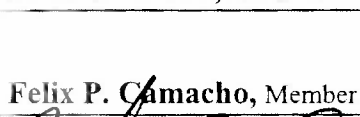
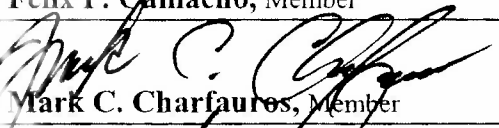
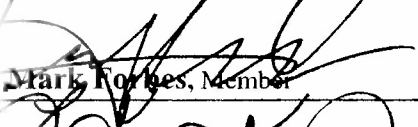
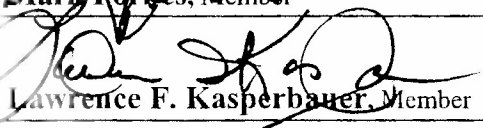

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**Committee on Ways and Means**

**Vote Sheet on  
Bill No.442 (LS)**

AN ACT TO *APPROVE* THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO *REQUIRE* THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.

COMMITTEE MEMBER	TO DO PASS	NOT TO PASS	REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
 Kaleo S. Moylan, Chairperson	✓				
 Joanne M.S. Brown, Vice Chairperson	✓				
 Antonio R. Unpingco, Speaker & Ex-Officio	✓				
 Eddie B. Calvo, Member	✓				
 Felix P. Camacho, Member					
 Mark C. Charfauros, Member	✗				
 Mark Forbes, Member	✓				
 Lawrence F. Kasperbauer, Member	✗				
 Vicente C. Pangelinan, Member	✓				



***Committee on Ways and Means***  
***Report On***

**Bill No. 442 (LS)**

**AN ACT TO *APPROVE* THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO *REQUIRE* THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS**

***PUBLIC HEARING:***

The Committee on Ways and Means, to which was referred Bill No. 442 (LS), “AN ACT TO *APPROVE* THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO *REQUIRE* THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS,” conducted a public hearing on Tuesday, December 24, 2002 at the Office of the People (Senator Vicente C. Pangelinan). Senator Kaleo S. Moylan, Chairperson of the Committee on Ways and Means, convened the hearing at 9:00 a.m. In attendance was Senator Mark C. Charfauros. Considering the urgent nature of Bill No. 442 (LS), the Chairperson announced that the required number of days for publication and public hearing has been waived

***TESTIMONY:***

Appearing before the Committee were Dale Peterson, Emergency Management Consultant (former FEMA Disaster Coordinating Officer) Joseph Cruz, Chairman of the GPA Board, Bruce Pecon, GPA Comptroller, Dave Sasai, Chief Financial Officer, GEDCA, Mark Merritt, Vice President, Crises and Consequences Management, and Joe Javallena, Administrator, Office of Civil Defense. All presented testimony supporting the passage and enactment of Bill 442. There being no further discussion, the Chair adjourned the hearing on Bill No 442 (LS) at 10:00 a.m.

***PROFILE, FINDINGS AND RECOMMENDATION***

Brief Title: “The Disaster Relief Fund Act of 2002.”

Date Introduced: Monday, December 23, 2002.

Main Sponsor: Senators Antonio R. Unpingco, Mark Forbes, V. C. Pangelinan.

Committee Referral: December 23, 2002, from the Committee on Rules, Governmental Operations, Reorganization and Reform, and Federal, Foreign and General Affairs to the Committee on Ways and Means.

Public Hearing: Tuesday, December 24, 2002, at 9:00 a.m. at the Office of the People (Senator V. C. Pangelinan).

Official Title: AN ACT TO *APPROVE* THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO *REQUIRE* THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.

Fiscal Note: Pursuant to the provisions of Chapter 9, Title 2 of the Guam Code Annotated, a request for a fiscal note on Bill No. 442 (LS) was made to BBMR on Monday, December 23, 2002.

Recommendation: To do pass.

### ***A Closer Look***

Bill No. 442 (LS) reveals that *I Liheslaturan Guåhan* has determined that in times of Disaster, such as typhoons and earthquakes, there is a critical need for access to money for emergency measures, capital and non capital improvements and replacements, renovations and general rehabilitation of Guam's communities. This is exemplified by three (3) declarations of emergency in the year 2001-2002 -- the December 2001 earthquake, typhoon Chata'an, and super typhoon Pongsona.

Furthermore, these emergencies occurred during an extended financial period in Guam where the economy has slowed to its worst levels in several decades. In addition, funds are needed to repair or replace damaged or worn out Guam assets not resulting from the disaster but identified during the disaster damage assessment and which are public purpose projects. History has demonstrated that each disaster has devastating financial impacts on Guam, which are significantly aggravated when repair and mitigation are not immediately undertaken. For example, the table that follows shows the sums provided to Guam after the last three (3) Disasters.

Date	Name	(1) Federal Public Assistance Projection	(2) Mitigation Projection	Matching Participation Fed/Guam	Total of (1) & (2)
12/5/01	Earthquake	\$3,182,974	\$411,640	75% / 25%	\$127,420,17
7/6/02	Typhoon Chata'an	\$21,431,672	\$8,005,044	90% / 10%	
12/8/02	Typhoon Pongsona	\$78,760,920 (Estimated from Typhoon Paka Projection *)	\$15,707,917	75% / 25%	

**\* Note:** The reason for the estimated figure used from Typhoon Paka is based in part on preliminary damage assessment still ongoing. Also Typhoon Paka wind strength is comparable to that of Typhoon Pongsona.

The government of Guam (Guam) relies primarily during Disasters on FEMA to provide loans and grants to fund repair and replacement of the damage and destruction. The schedule above sets forth the funds provided Guam by FEMA during the last three (3) Disasters. While the amount is significant, the amount of matching participation funds obligated by Guam to pay, is as low as ten percent (10%) and no greater than twenty-five percent (25%).

FEMA requires that Guam provide a percentage of matching funds for FEMA grant assistance. By way of this Act, the Lender is authorized to loan the amount of the matching funds to Guam as well. Guam will secure any such loans with an assignment of Section 30 funds, or other assets of Guam.

By using the process implemented by this Act, Guam will have no unfunded liability to the Lender, since the DDT will be required to approve Guam draw downs on the LOC by assuring that Guam will receive a like amount from FEMA. The only possible unfunded liability to the Lender would be for amounts borrowed based on Guam matching funds required by FEMA, although this amount will be secured by Section 30 funds, or other assets of Guam.

### **Section Analyses**

**Section 1. Title.** Section cites the as “*The Disaster Recovery Relief Fund Act of 2002.*”

**Section 2. Legislative Findings.**

**Section 3. Definitions.** This Section defines the words and phrases that are used through the Act.

**Section 4. Procurement for LOC, Collateral, Terms and Conditions.** This Section provides that upon passage of this Act, GEDCA shall immediately initiate preparation of solicitation documents for an RFP by lenders. It also provides that the solicitation or emergency award shall require the Lender provide a credit facility in the form of a revolving

LOC. It provides that the successful Lender must provide the structure, training and personnel required for the DDT, with necessary assurances of the DDT's ability to perform its duties as delineated elsewhere in this Act.

**Section 5. Purposes and Authority of the DDT in the Disaster Process.**

This Section provides that the DDT, which shall be selected, organized, trained, paid for and supervised by the Lender, and then when a Disaster occurs, a DAT composed of Guam officials of the GRO appointed by the Governor, and federal officials from all relevant agencies will conduct a damage survey of Guam to examine and inspect the damage resulting from the Disaster. It also provides that during the same period, officials of each Guam agency will cause a report to the DAT of the extent and nature of the damage to property under the control or ownership of the agency.

**Section 6. Assignments.** The purpose of this Section is to provide security for the Lender for the Guam loans under this Act. It also provides that the government of Guam may assign the corresponding FEMA funds which are expected to be received. If an assignment is made to FEMA by Guam, to the full extent allowed by federal and Guam law, the proceeds of the FEMA disbursements assigned to the Lender shall be paid directly to the Lender.

**Section 7. Use of Funds.** This Section authorizes the Governor to draw on the LOC provided the amounts have been recommended for approval by the DDT. Furthermore, Funds from the LOC will be used for emergency purposes to address the damage resulting from Disasters, and for PPPs. The PPP draws on the LOC shall be limited to the amount of the matching contribution Guam is required to make on the Disaster grants, which can range from 0% to 25% of the loan. The PPP draws on the LOC may be used to fund PPP, and Guam may pledge its Section 30 funds or other assets periodically from the federal government.

**Section 8. Lender's Disaster Escrow Account.** This Section provides that after submission of the FEMA required documentation by the DDT to the GRO and the request for a drawdown by Guam on the revolving LOC, the Lender shall pay the money to the LDEA, which will be through an escrow selected by Lender, through an escrow process performed directly by Lender, or by the Guam Department of Administration if Lender so elects. The LDEA shall determine that the proper amount of money is allocated and disbursed to Guam, a Guam agency, a service provider or supplier or vendor. The LDEA shall issue the physical checks in the amounts, and to Guam and to the entities, consistent with the process established by this Act.

**Section 9. Applicability of Act.** This Section provides that this Act shall be applicable to all disasters occurring after December 1, 2001. Solicitations for RFP's under the authority of this Act shall not commence, and no commitments of any kind will be made under the Act until after January 6, 2003.

**Section 10. Lender May Use Tax Exempt Bonds.** This Section provides that the Lender may use as a source of funds to make loans under the LOC, money from tax free bonds, if such tax free bonds are available for any portion of the loans of the Lender. Lastly, it provides that the government of Guam shall have no responsibility whatsoever for, or in connection with, repayment of the bonds, or any other requirements imposed by the bonds, which shall be the sole responsibility of the Lender. There shall be no contractual privity or relation between Guam and the bond holders or any one else that has responsibility under the bonds.

**Section 11. Severability.**

Full Rdg  
12/24/02

12/27/02  
POF-2

Bank on top of it

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN  
2002 (SECOND) Regular Session**

**Bill No. 442 (FS)**

Introduced by:

A. R. Unpingco  
Mark Forbes  
V. C. Pangelinan

**AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO REQUIRE THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.**

- 1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**
- 2 **“THE DISASTER RECOVERY RELIEF FUND ACT OF 2002**
- 3 **Section 1. Title.**
- 4 **Section 2. Legislative Findings and Policies.**
- 5 **Section 3. Definitions.**
- 6 **Section 4. Procurement for LOC, Collateral,**
- 7 **Terms and Conditions.**
- 8 **Section 5. Purposes and Authority of the DDT in**
- 9 **the Disaster Process.**

1	<b>Section 6.</b>	<b>Assignment.</b>
2	<b>Section 7.</b>	<b>Use of Funds.</b>
3	<b>Section 8.</b>	<b>Funds Disbursement Escrow Holder.</b>
4	<b>Section 9.</b>	<b>Applicability of Act.</b>
5	<b>Section 10.</b>	<b>Lender May Use Tax Exempt Bonds.</b>
6	<b>Section 11.</b>	<b>Severability.</b>

7

8       **Section 1. Title.**       This Act shall be known and shall be cited as “*The*  
9 *Disaster Recovery Relief Fund Act of 2002.*”

10       **Section 2. Legislative Findings.**   *I Liheslaturan Guåhan* has determined  
11 that in times of Disaster, such as typhoons and earthquakes, there is a critical need for  
12 access to money for emergency measures, capital and non capital improvements and  
13 replacements, renovations and general rehabilitation of Guam’s communities. This is  
14 exemplified by three (3) declarations of emergency in the year 2001-2002 -- the  
15 December 2001 earthquake, typhoon Chata’an, and super typhoon Pongsona. These  
16 emergencies occurred during an extended financial period in Guam where the  
17 economy has slowed to its worst levels in several decades.

18       In addition, funds are needed to repair or replace damaged or worn out Guam  
19 assets not resulting from the disaster but identified during the disaster damage  
20 assessment and which are public purpose projects.

21       History has demonstrated that each disaster has devastating financial impacts on  
22 Guam, which are significantly aggravated when repair and mitigation are not  
23 immediately undertaken.

24

1 For example, the table that follows shows the sums provided to Guam after the  
 2 last three (3) Disasters.

Date	Name	(1) Federal Public Assistance Projection	(2) Mitigation Projection	Matching Participation Fed/Guam	Total of (1) and (2)
12/5/01	Earthquake	\$3,182,974	\$411,640	75% / 25%	\$127,420,17
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**\* Note:** The reason for the estimated figure used from Typhoon Paka is based in part on preliminary damage assessment still ongoing. Also Typhoon Paka wind strength is comparable to threat of Typhoon Pongsona.

1 The government of Guam (Guam) relies primarily during Disasters on FEMA  
 2 to provide loans and grants to fund repair and replacement of the damage and  
 3 destruction. The schedule above sets forth the funds provided Guam by FEMA during  
 4 the last three (3) Disasters. While the amount is significant, the amount of matching  
 5 participation funds obligated by Guam to pay, is as low as ten percent (10%) and no  
 6 greater than twenty-five percent (25%).

7 Unfortunately, over the years, through a failure at least in part of Guam and its  
 8 agencies, FEMA has developed a concern over the ability of Guam to provide the  
 9 supporting documentation for FEMA assistance. As a result, FEMA assistance is not  
 10 as swift as it should be, and Guam may qualify for larger amounts of assistance with

1 better procedures and knowledgeable assistance to insure the reliability of Guam's  
2 applications and supporting documentation.

3 *I Liheslaturan Guåhan* believes it is in the best interest of Guam to establish a  
4 law which solicits for a Lender to provide an available revolving line of credit "LOC"  
5 which can be drawn on promptly in the event of a Disaster and repayable with FEMA  
6 funds when approved and distributed. The Lender will be able to make loans to Guam  
7 on the reliance that FEMA will pay Guam a substantially equivalent amount necessary  
8 to repay the Lender.

9 The Lender, at the Lender's expense, will be required to put into service a  
10 Disaster Documentation Team "DDT". The purpose of the DDT will be to review and  
11 prepare all damage documentation provided by Guam or its agencies to assure that the  
12 documentation is in order and in full compliance with all FEMA requirements before  
13 submission of the documentation to FEMA by Guam. The DDT will be comprised of  
14 personnel that have extensive background and knowledge of FEMA laws, rules and  
15 regulations. The Lender, through use of the DDT, will have a strong incentive to  
16 assure FEMA compliance since observance of FEMA requirements will be one of the  
17 Lender's repayment protections.

18 FEMA requires that Guam provide a percentage of matching funds for FEMA  
19 grant assistance. By way of this Act, the Lender is authorized to loan the amount of  
20 the matching funds to Guam as well. Guam will secure any such loans with an  
21 assignment of Section 30 funds, or other assets of Guam.

22 By using the process implemented by this Act, Guam will have no unfunded  
23 liability to the Lender, since the DDT will be required to approve Guam draw downs  
24 on the LOC by assuring that Guam will receive a like amount from FEMA. The only  
25 possible unfunded liability to the Lender would be for amounts borrowed based on



1 Guam matching funds required by FEMA, although this amount will be secured by  
2 Section 30 funds, or other assets of Guam.

3 *I Liheslaturan Guåhan* will require under this Act that all amounts loaned by  
4 the Lender shall have a seven (7) year maturity at an interest rate that is commercially  
5 reasonable based on market rates and Guam's then current Bests Rating. Any  
6 amounts not paid within seven (7) years, together with loans of the matching funds or  
7 funding of PPP, will be rolled over into a long term loan with Lender, with a term no  
8 longer than thirty (30) years, and a commercially reasonable interest rate based on  
9 market rates and Guam's Bests Rating.

10 Under the structure of this Act, the review process of all FEMA documentation  
11 will be taken out of the initial control of Guam personnel and become the  
12 responsibility of the DDT. The Lender will also hold and control the Lender's  
13 Disaster Account which will instill another layer of integrity on the disbursement of  
14 funds that are for FEMA projects, as well as money for public purpose projects.

15 **Section 3. Definitions.** The following words and phrases are defined in  
16 this Act to have the same meaning throughout this Act.

17 "Act" means "The Disaster Reimbursement Act of 2002.

18 "DAT" means the Damage Assessment Team which is composed of any  
19 officials designated by FEMA or any other federal agency, and members of the  
20 Guam Recovery Office, both more fully described in the Act.

21 "Disaster" means a typhoon, earthquake, tsunami, storm water, storm  
22 surge, inordinate flooding, and any other casualty usually associated with acts  
23 of God which are natural and not person-made, and cause widespread damage  
24 and destruction in Guam.

25 "DDT" means the Disaster Documentation Team, which shall be  
26 implemented, employed and controlled by the Lender, at Lender's expense, and

1 will be comprised of personnel that have extensive background and knowledge  
2 of FEMA laws, rule and regulations, and FEMA's custom and practice.

3 "FEMA" means the Federal Emergency Management Agency, an agency  
4 of the federal government, that provides emergency grants and loans and other  
5 relief in times of disaster.

6 "GRO" means the Guam Recovery Office.

7 "Guam" means the Government of Guam or the Governor of Guam as  
8 indicated by the context.

9 "Lender" means a bank, or other lending institution that (either on-island  
10 or off-island) is successful in obtaining an award of the solicitation for a  
11 Request for Proposal pursuant to this Act. The Lender shall also be responsible  
12 for the DDT and the LDEA.

13 "LDEA" means the Lender's Disaster Escrow Account, which is defined  
14 in Section 8 of this Act.

15 "LOC" means a revolving Line of Credit loan facility that can be drawn  
16 on multiple times, replenished in whole or in part, and drawn on again.

17 "PPP" means Public Purpose Projects which, in this Act, refers to PPPs  
18 where Guam is in critical need of money for emergency measures, capital  
19 improvements, renovations and general rehabilitation not resulting from the  
20 Disaster but identified during the Disaster assessment by DAT or otherwise.

21 "RFP" means a Request for Proposal which is a solicitation by Guam for  
22 a proposal by vendors, suppliers or service providers for goods or services, and  
23 is issued by the appropriate Guam procurement authority.

#### 24 **Section 4. Procurement for LOC, Collateral, Terms and Conditions.**

25 Upon passage of this Act, the Guam Economic Development and Commerce  
26 Authority (GEDCA) shall immediately initiate preparation of solicitation documents

vfp FA 1

1 for an RFP by lenders. The solicitation ~~[or emergency award]~~ shall require the Lender  
2 provide a credit facility in the form of a revolving LOC. The successful Lender must  
3 provide the structure, training and personnel required for the DDT, with necessary  
4 assurances of the DDT's ability to perform its duties as delineated elsewhere in this  
5 Act. The Lender must be willing to accept as the only collateral for the loans the  
6 FEMA grants generated as a result of a Disaster, for the federal portion of the FEMA  
7 grant, and the Section 30 funds or other assets for Guam's matching participation on  
8 the grant. Nothing stated herein shall preclude Guam and the Lender from entering  
9 into a different security arrangement, but Guam is not required to provide any more  
10 security or collateral for the loans as provided for in this Section 4. The interest that  
11 may be charged by the Lender for a draw down on the LOC shall have a seven (7)  
12 year maturity and bear interest at a commercially reasonable rate based on market  
13 rates and Guam's Best Rating. FA

vfp FA 2

14 **Section 5. Purposes and Authority of the DDT in the Disaster Process.**

15 The DDT, which shall be selected, organized, trained, paid for and supervised  
16 by the Lender, will perform the following duties. When a Disaster occurs, a DAT  
17 composed of Guam officials of the GRO appointed by the Governor, and federal  
18 officials from all relevant agencies will conduct a damage survey of Guam to examine  
19 and inspect the damage resulting from the Disaster. During the same period, all the  
20 highest official of each Guam agency will cause a report to the DAT of the extent and  
21 nature of the damage to property under the control or ownership of the agency.

22 All Guam personnel involved in recovery efforts of any kind, and particularly  
23 personnel of the GRO, shall at all times fully and completely cooperate with DDT,  
24 and shall provide to DDT all forms, documents, applications, photographs, statements,  
25 narratives and information derived from contacts with FEMA and other federal  
26 officials, as may be requested by DDT. Guam personnel working in disaster relief in

I MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN

FLOOR AMENDMENTS/CHANGES

Bill No. 442

VCP

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

§ 2, line 1 delete " or emergency award"

(Below only for Clerk of Legislature's use and processing))

Date 12/24, 2002

Floor Amendment No. 1 of a total of     changes on above Bill.

Votes For Amendment:     Votes Against Amendment:    

AMENDMENT PASSED:    

Amendment Failed:    

Amendment Withdrawn:    

APPROVED AS TO FORM PASSED

[Signature]  
AUTHOR OF AMENDMENT

Concur (initial)

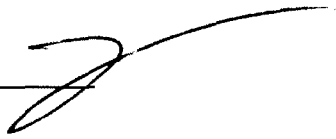
[Signature]  
Clerk of Legislature

\_\_\_\_\_  
Speaker

Ass't. Amend. Clerk  
Engrossment Staff

**I MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**

**FLOOR AMENDMENTS/CHANGES**  
**Bill No. 442**

**Senator Proposing Amendment:** vcp 

*(Below for Senator to complete)*

Please describe proposed amendment, including where change to occur:

*Add the following to the end of Section 4 of Bill 442 (line 13 on page 8) to read as follows:*

Any agreement between Guam or the Guam Recovery Office and the Lender pursuant to the RFP shall be subject to legislative approval, shall not include an indemnity of the Lender by Guam, and shall provide that Guam shall not be liable for any expenditures made by the Lender which are not reimbursable by FEMA <sup>after all appeals</sup> with the exception of administrative costs and interest, nor shall Guam be liable for any <sup>negligent</sup> actions or errors of the DDT .

*vcp*

~~Any charges incidental to the line of credit shall not exceed <sup>one</sup> twenty (20%) of the line of credit amount.~~

*\* Add the following to the end of line 24 on page 6:*

*"for which the President has declared the area to have been the subject of a national disaster eligible for FEMA aid."*

*(Below only for Clerk of Legislature's use and processing)*

Date: December 2, 2002

Floor Amendment No. 2 of a total of      changes on above Bill.

Votes For Amendment:      Votes Against Amendment:     

**AMENDMENT PASSED:**     

Amendment Failed:     

Amendment Withdrawn:     

*adante*

1 any capacity shall be informed of the nature and purpose of the DDT, and the vital  
2 need for DDT's work so that Guam can draw down as soon as possible on the LOC.  
3 After completion of the DAT or any phase of the DAT, Guam personnel shall provide  
4 all information and documentation described in this Section 5 to DDT so that all  
5 information, applications or other documents to be provided through the GRO to  
6 FEMA to support and substantiate the requested assistance, will be in full compliance  
7 with FEMA laws, rules and regulations, and custom and practice. After DDT has  
8 completed any phase of its work, the documentation and related information shall be  
9 provided to the GRO for submission to FEMA. DDT shall implement a review  
10 process so that Guam, each of its agencies and the GRO have an opportunity to review  
11 the proposed DDT final set of documentation to FEMA to assure that the submission  
12 is accurate and complete. DDT shall then recommend to the Lender the amount of  
13 FEMA money reasonably expected to be obtained as a result of the disaster or any  
14 phase of the disaster that has been assessed and submitted to FEMA. Lender shall  
15 immediately process for drawdown on the LOC credit facility funds in the gross  
16 amount of the sum recommended for approval by the DDT. The funds shall be  
17 transferred to the LDEA for distribution in check form in the amounts allocated to  
18 Guam, an agency of Guam, a service provider or a vendor or supplier.

19 **Section 6. Assignments.** To provide security for the Lender for the  
20 Guam loans under this Act, Guam may assign the corresponding FEMA funds which  
21 are expected to be received. If an assignment is made to FEMA by Guam, to the full  
22 extent allowed by federal and Guam law, the proceeds of the FEMA disbursements  
23 assigned to the Lender shall be paid directly to the Lender.

24 **Section 7. Use of Funds.** The Governor is authorized, upon passage of  
25 this Act and without further approval, to draw on the LOC provided the amounts have  
26 been recommended for approval by the DDT. Funds from the LOC will be used for

1 emergency purposes to address the damage resulting from Disasters, and for PPPs.  
2 The PPP draws on the LOC shall be limited to the amount of the matching  
3 contribution Guam is required to make on the Disaster grants, which can range from  
4 0% to 25% of the loan. The PPP draws on the LOC may be used to fund PPP, and  
5 Guam may pledge its Section 30 funds or other assets periodically from the federal  
6 government.

7 **Section 8. Lender's Disaster Escrow Account.** After submission of  
8 the FEMA required documentation by the DDT to the GRO and the request for a  
9 drawdown by Guam on the revolving LOC, the Lender shall pay the money to the  
10 LDEA, which will be through an escrow selected by Lender, through an escrow  
11 process performed directly by Lender, or by the Guam Department of Administration  
12 if Lender so elects. The LDEA shall determine that the proper amount of money is  
13 allocated and disbursed to Guam, a Guam agency, a service provider or supplier or  
14 vendor. The LDEA shall issue the physical checks in the amounts, and to Guam and  
15 to the entities, consistent with the process established by this Act.

16 **Section 9. Applicability of Act.** This Act shall be applicable to all  
17 disasters occurring after December 1, 2001. Solicitations for RFP's under the  
18 authority of this Act shall not commence, and no commitments of any kind will be  
19 made under the Act until after January 6, 2003.

20 **Section 10. Lender May Use Tax Exempt Bonds.** The Lender may use  
21 as a source of funds to make loans under the LOC, money from tax free bonds, if such  
22 tax free bonds are available for any portion of the loans of the Lender. Guam  
23 acknowledges and understands that at least as to the LOC loans repaid by the FEMA  
24 reimbursement, are not tax exempt, but the Lender may obtain tax exempt funds as a  
25 source of loans made and secured by Section 30 funds or other Guam assets, if  
26 available, so as to reduce the interest cost on the loans to Guam. However, Guam

1 shall have no responsibility whatsoever for, or in connection with, repayment of the  
2 bonds, or any other requirements imposed by the bonds, which shall be the sole  
3 responsibility of the Lender. There shall be no contractual privity or relation between  
4 Guam and the bond holders or any one else that has responsibility under the bonds.

5 **Section 11. Severability.** *If* any provision of this Law or its application to  
6 any person or circumstance is found to be invalid or contrary to law, such invalidity  
7 *shall* not affect other provisions or applications of this Law which can be given effect  
8 without the invalid provisions or application, and to this end the provisions of this  
9 Law are severable.



**Statement by Mark Merritt  
Vice President, Crisis and Consequence Management  
James Lee Witt Associates  
December 24, 2002**

Hafa Adai. I am Mark Merritt, Vice President of Crisis and Consequence Management for James Lee Witt Associates. I feel it is important to note that we have had the honor and privilege of supporting the Government of Guam and its agencies during Typhoons Chata'an and Pongsona.

On behalf of James Lee Witt, I would like to thank the Guam legislature and the Chairman for holding this hearing and allowing this statement to be submitted for the record.

I appreciate the opportunity to speak in favor of this legislation. I can say from my experience as Director of FEMA for 8 years that Guam faces very real risks with natural disasters--typhoons, tsunamis, earthquakes, and flooding--which have been common in this island's long and proud history.

Following disasters, Guam must tackle unique issues in responding to and recovering from these terrible events. Most of the challenges result from the logistical hurdles of moving resources and supplies to the island. Unfortunately, some of the challenges have stemmed from the understandable difficulties with which Federal assistance reaches the communities that have been impacted.

When I was Director of FEMA, we always were looking for ways to expedite assistance to Guam. However, the law that governs the Public Assistance Program, which administers large infrastructure projects, stipulates that assistance is available on a reimbursement basis. That means that while citizens and leadership are scrambling to get the power on, the telecommunications back up and running, and repairs completed for vital transportation links and buildings; the bulk of financial assistance from the Federal government is not yet flowing to Guam. On behalf of the President and the American people, I administered Federal assistance under that system and it makes sense for the Federal government to do it in that manner to be good stewards of our taxpayer dollars.

Implementing this system for recovery, by which Guam assumes more responsibility for their own recovery and institutes new measures of accountability, is innovative and may well set an example for other state or territorial governments who are looking for new ways to do business in these economic times. At FEMA, I was a proponent of new approaches that engaged the private sector. We focused attention on helping communities build public-private partnerships for preventing and mitigating the impact of disasters. This public-private partnership, outlined by the proposed legislation, could become a model for others on how these partnerships can be used for response and recovery activities.

Because Guam faces these unique challenges, I applaud the government for looking at ways that not only will accelerate your recovery but also will help finance your cost share burden. This is especially important because you currently are recovering from three disasters at the same time.

Thank you again for allowing me to comment on this innovation in disaster management and please let me know if there is anything further I can do to assist your efforts.

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
*Mina'Bente Sais Na Liheslaturan Guåhan*  
Twenty-Sixth Guam Legislature

December 23, 2002

The Honorable Carl T.C. Gutierrez  
*Maga'lahaen Guåhan*  
R. J. Bordallo Governor's Complex  
Agana, Guam 96932

Re: Committee Public Hearing: Tuesday, December 24, 2002

Dear Governor Gutierrez:

This is to inform you that the Committee on Ways and Means will conduct a public hearing on the following legislative measures:

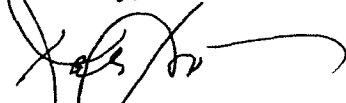
**Bill No. 417 (COR), AN ACT TO ADD A NEW SUBSECTION (d) TO §77112.1 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE LEASE OF THE PASEO STADIUM BY THE GUAM BASEBALL FEDERATION, A NON-PROFIT ORGANIZATION.**

**Bill No. 426 (COR) AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED, AND TO APPROVE THE TERMS AND CONDITIONS OF THE ISSUANCE OF CERTAIN GUAM POWER AUTHORITY REVENUE BONDS.**

**Bill No. 442 (LS) AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO REQUIRE THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.**

As these measures directly affect the government of Guam, especially disaster recovery from Super typhoon Pongsona the Committee encourages your participation and input at this hearing. The Committee would appreciate receiving fifteen (15) copies of your Administration's position statement and or documents relating to the subject matter prior to the start of the hearing. A copy of the hearing Agenda is enclosed for your reference and information.

Sincerely,



**KALEO S. MOYLAN**

Enclosures:

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
*Mina'Bente Sais Na Liheslaturan Guåhan*  
**Twenty-Sixth Guam Legislature**

December 23, 2002

MEMORANDUM

To: All Members, Committee on Ways and Means

From The Chairperson,

Subject: Committee Public Hearing, Tuesday, December 24, 2002

This is to inform you that the Committee on Ways and Means will conduct a Public Hearing on Tuesday, December 24, 2002 at 9:00 a.m. Copies of the legislation and hearing Agenda are attached for your review.

Thank you for your time and I look forward to your attendance and participation.



**KALEO S. MOYLAN**

Attachment:

cc: All Senators  
Clerk of Legislature  
Protocol  
Media

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
***Mina'Bente Sais Na Liheslaturan Guåhan***  
**Twenty-Sixth Guam Legislature**

December 23, 2002

Mr. Edward G. Untalan  
Administrator  
Guam Economic Development and Commerce Authority  
Tamuning, Guam 96911

Re: Committee Public Hearing: Tuesday, December 24, 2002

Dear Mr. Untalan:

This is to inform you that the Committee on Ways and Means will conduct a public hearing on Tuesday, December 24, 2002 commencing at 9:00 a.m.

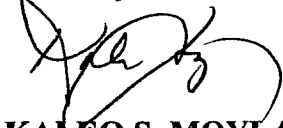
**Bill No. 426 (COR)** AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED, AND TO APPROVE THE TERMS AND CONDITIONS OF THE ISSUANCE OF CERTAIN GUAM POWER AUTHORITY REVENUE BONDS.

**Bill No. 442 (LS)**; AN ACT TO *APPROVE* THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO *REQUIRE* THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.

As the aforementioned legislative measures directly impacts the General Fund and other funds of the government, the Committee would appreciate a financial update on these accounts as well as fifteen (15) copies of your position statement and or documents relating to the subject matter prior to the start of the hearing.

A copy of the hearing Agenda is enclosed for your reference and information.

Sincerely,



**KALEO S. MOYLAN**

Enclosures:

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
***Mina'Bente Sais Na Liheslaturan Guåhan***  
**Twenty-Sixth Guam Legislature**

December 23, 2002

Mr. Joe Javellana  
Administrator  
Office of Civil Defense  
Agana, Guam 96910

Re: Committee Public Hearing: Tuesday, December 24, 2002

Dear Mr. Javellana:

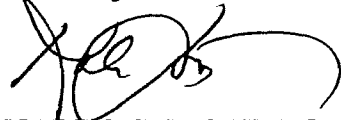
This is to inform you that the Committee on Ways and Means will conduct a public hearing on Tuesday, December 24, 2002 commencing at 9:00 a.m.

**Bill No. 442 (LS); AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO REQUIRE THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.**

As the aforementioned legislative measure directly impacts the ability to recover from Super Typhoon Pongsona would appreciate your position statement and or documents relating to the subject matter prior to the start of the hearing.

A copy of the hearing Agenda is enclosed for your reference and information.

Sincerely,



**KALEO S. MOYLAN**

Enclosure:

cc: Maj. Gen. Benny Paulino, State Coordinating Officer  
Mr. Dale Peterson, Emergency Management Consultant

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
***Mina'Bente Sais Na Liheslaturan Guåhan***  
**Twenty-Sixth Guam Legislature**

December 23, 2002

Ms. T. Ann Perez  
General Manager  
Guam Power Authority  
Tamuning, Guam 96911

Re: Committee Public Hearing: Tuesday, December 24, 2002

Dear Ms. Aguon:

This is to inform you that the Committee on Ways and Means will conduct a public hearing on Tuesday, December 10, 2002 commencing at 9:00 a.m.

**Bill No. 426 (COR) AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED, AND TO APPROVE THE TERMS AND CONDITIONS OF THE ISSUANCE OF CERTAIN GUAM POWER AUTHORITY REVENUE BONDS.**

As the aforementioned legislative measures directly impacts GPA, the Committee would appreciate a financial update on these accounts as well as fifteen (15) copies of your position statement and or documents relating to the subject matter prior to the start of the hearing.

A copy of the hearing Agenda is enclosed for your reference and information.

Sincerely,



**KALEO S. MOYLAN**

Enclosures:

cc: Mr. Bruce Pecon Comptroller  
Chairman, PUC

**Senator Kaleo S. Moylan**  
**Chairperson, Committee on Ways and Means**  
*Mina'Bente Sais Na Liheslaturan Guåhan*  
**Twenty-Sixth Guam Legislature**

December 23, 2002

MEMORANDUM

To: All Members, Committee on Ways and Means

From The Chairperson,

Subject: Committee Public Hearing, Tuesday, December 24, 2002

This is to inform you that the Committee on Ways and Means will conduct a Public Hearing on Tuesday, December 24, 2002 at 9:00 a.m. Copies of the legislation and hearing Agenda are attached for your review.

Thank you for your time and I look forward to your attendance and participation.

  
**KALEO S. MOYLAN**

Attachment:

cc: All Senators  
Clerk of Legislature  
Protocol  
Media

**Senator Kaleo S. Moylan, Chairman  
Committee on Ways and Means**

**Office of the People  
(Senator V. C. Pangelinan)  
Suite 106-A Ada's Plaza, Aspinal Ave. Agana**

**9:00 a.m., Tuesday, December 24, 2002**

**A G E N D A**

- I. Call to Order:
- II. Announcement & Introduction of Members:
- III. Legislative Measures:

Bill No. 417 (COR) AN ACT TO ADD A NEW SUBSECTION (d) TO §77112.1 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE LEASE OF THE PASEO STADIUM BY THE GUAM BASEBALL FEDERATION, A NON-PROFIT ORGANIZATION.

Bill No. 426 (COR) AN ACT TO AMEND CERTAIN PROVISIONS OF CHAPTER 8 OF TITLE 12, GUAM CODE ANNOTATED, AND TO APPROVE THE TERMS AND CONDITIONS OF THE ISSUANCE OF CERTAIN GUAM POWER AUTHORITY REVENUE BONDS.

Bill No. 442 (LS) AN ACT TO *APPROVE* THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO *REQUIRE* THE LENDER TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.

- IV. Remarks and Requests:
- V. Adjournment:



3rd  
12/30/02

Pl. 26-174

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN  
2002 (SECOND) Regular Session**

**Bill No. 442 (LS)**

As Substituted on the Floor.

Introduced by:

A. R. Unpingco

Mark Forbes

V. C. Pangelinan

**AN ACT TO APPROVE THE ESTABLISHMENT OF A REVOLVING LINE OF CREDIT SECURED IN PART THROUGH THE REPAYMENT BY THE GOVERNMENT OF GUAM OF THE PROCEEDS OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), AND TO ESTABLISH AND IMPLEMENT A DISASTER DOCUMENTATION TEAM TO ASSURE STRICT COMPLIANCE WITH FEMA RULES AND REGULATIONS TO MAXIMIZE FEMA FUNDING AND TO ASSURE THE LARGEST POSSIBLE PAYMENT ON THE LINE OF CREDIT THROUGH FEMA REPAYMENTS.**

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

2 **“THE DISASTER RECOVERY RELIEF FUND ACT OF 2002**

3 **Section 1. Title.**

4 **Section 2. Legislative Findings and Policies.**

5 **Section 3. Definitions.**

6 **Section 4. Procurement for LOC, Collateral,**  
7 **Terms and Conditions.**

1	<b>Section 5.</b>	<b>Purposes and Authority of the DDT in</b>
2		<b>the Disaster Process.</b>
3	<b>Section 6.</b>	<b>Assignment.</b>
4	<b>Section 7.</b>	<b>Use of Funds.</b>
5	<b>Section 8.</b>	<b>Funds Disbursement Escrow Holder.</b>
6	<b>Section 9.</b>	<b>Applicability of Act.</b>
7	<b>Section 10.</b>	<b>Lender May Use Tax Exempt Bonds.</b>
8	<b>Section 11.</b>	<b>Severability.</b>

9

10       **Section 1. Title.**       This Act shall be known and shall be cited as “*The*

11 *Disaster Recovery Relief Fund Act of 2002.*”

12       **Section 2. Legislative Findings.**   *I Liheslaturan Guåhan* has determined

13 that in times of Disaster, such as typhoons and earthquakes, there is a critical need for

14 access to money for emergency measures, capital and non capital improvements and

15 replacements, renovations and general rehabilitation of Guam’s communities. This is

16 exemplified by three (3) declarations of emergency in the year 2001-2002 -- the

17 December 2001 earthquake, typhoon Chata’an, and super typhoon Pongsona. These

18 emergencies occurred during an extended financial period in Guam where the

19 economy has slowed to its worst levels in several decades.

20       In addition, funds are needed to repair or replace damaged or worn out Guam

21 assets not resulting from the disaster but identified during the disaster damage

22 assessment as public purpose projects, for the mitigation of future damage and

23 determined eligible for FEMA funding.

24       History has demonstrated that each disaster has devastating financial impacts on

25 Guam, which are significantly aggravated when repair and mitigation are not

26 immediately undertaken.

1 For example, the table that follows shows the sums provided to Guam after the  
 2 last three (3) Disasters.

Date	Name	(1) Federal Public Assistance Projection	(2) Mitigation Projection	Matching Participation Fed/Guam	Total of (1) and (2)
12/5/01	Earthquake	\$3,182,974	\$411,640	75% / 25%	
7/6/02	Typhoon Chata'an	\$21,431,672	\$8,005,044	90% / 10%	
12/8/02	Typhoon Pongsona (Estimated from Typhoon Paka Projection *)	\$78,760,920	\$15,707,917	75% / 25%	
		<u>\$103,375,566</u>	<u>\$24,124,601</u>		<u>\$127,500,167</u>

\* **Note:** The reason for the estimated figure used from Typhoon Paka is based in part on preliminary damage assessment still ongoing. Also Typhoon Paka wind strength is comparable to that of Typhoon Pongsona.

1 The government of Guam (Guam), after federally declared disaster, relies  
 2 primarily on FEMA to provide loans and grants to fund repair and replacement of the  
 3 damage and destruction. The schedule above sets forth the funds provided Guam by  
 4 FEMA for recovery from the last three (3) Disasters. While the amount is significant,  
 5 the amount of matching participation funds obligated by Guam to pay, is as low as ten  
 6 percent (10%) and no greater than twenty-five percent (25%).

7 Unfortunately, over the years, through a failure at least in part of Guam and its  
 8 agencies, FEMA has developed a concern over the ability of Guam to provide the  
 9 supporting documentation for FEMA assistance. As a result, FEMA assistance is not  
 10 as swift as it should be, and Guam may qualify for larger amounts of assistance with

1 better procedures and knowledgeable assistance to insure the reliability of Guam's  
2 applications and supporting documentation.

3 *I Liheslaturan Guåhan* believes it is in the best interest of Guam to establish a  
4 law which solicits for a Lender to provide an available revolving line of credit "LOC"  
5 which can be drawn on promptly in the event of a Disaster and repayable with FEMA  
6 funds when approved and distributed. The Lender will be able to make loans to Guam  
7 on the reliance that FEMA will pay Guam a substantially equivalent amount necessary  
8 to repay the Lender.

9 In order to assure the best probability of full reimbursement available from  
10 FEMA for recovery expenditures incurred by the government, it is in the  
11 government's interest to contract the services of a Disaster Documentation Team  
12 "DDT" which posses the necessary technical and professional expertise to assist the  
13 government in the preparation and submission of the project worksheets required by  
14 FEMA for funding approval and payment. The purpose of the DDT will be to review  
15 and prepare all damage documentation provided by Guam or its agencies to assure  
16 that the documentation is in order and in full compliance with all FEMA requirements  
17 before submission of the documentation to FEMA by Guam. The DDT will be  
18 comprised of personnel that have extensive background and knowledge of FEMA  
19 laws, rules and regulations. The Government, through use of the DDT, will be in a  
20 strong position to assure FEMA compliance in securing the funding necessary for the  
21 repayment of the line of credit.

22 FEMA requires that Guam provide a percentage of matching funds for FEMA  
23 grant assistance. By way of this Act, the Government is authorized to access the  
24 immediate cash needs for the matching funds Guam needs for expeditious recovery  
25 with an assignment of Section 30 funds, or other assets of Guam for the repayment of  
26 the recovery funds needs and not covered by FEMA reimbursements.

1 By using the process implemented by this Act, Guam will have reduced its risk  
2 for unfunded liability on the line of credit, except for the administrative costs, interest  
3 charges, the local matching funds required and miscellaneous expenses not  
4 reimbursable by FEMA, since the DDT will be in place to provide the expertise in the  
5 preparation of the project worksheets assuring that Guam will receive a like amount  
6 from FEMA

7 *I Liheslaturan Guåhan* will require under this Act that all amounts loaned by  
8 the Lender shall have a seven (7) year maturity at an interest rate that is commercially  
9 reasonable based on market rates. Any amounts not paid within seven (7) years,  
10 which includes interest, administrative cost, non-reimbursed DDT cost, together with  
11 loans of the matching funds or funding of PPP, may be rolled over into a long term  
12 loan pursuant to another RFP, with a term no longer than thirty (30) years, and a  
13 commercially reasonable interest rate based on market.

14 **Section 3. Definitions.** The following words and phrases are defined in  
15 this Act to have the same meaning throughout this Act.

16 “Act” means “The Disaster Reimbursement Act of 2002.

17 “DAT” means the Damage Assessment Team which is composed of any  
18 officials designated by FEMA or any other federal agency, and members of the  
19 Guam Recovery Office, both more fully described in the Act.

20 “Disaster” means a typhoon, earthquake, tsunami, storm water, storm  
21 surge, inordinate flooding, and any other casualty usually associated with acts  
22 of God which are natural and not person-made, and cause widespread damage  
23 and destruction in Guam, for which the President has declared the area to have  
24 been the subject of a national disaster and eligible for FEMA aid.

25 “DDT” means the Disaster Documentation Team, which shall be  
26 implemented, contracted and controlled by Guam, and will be comprised of

1 personnel that have extensive background and knowledge of FEMA laws, rule  
2 and regulations, and FEMA's custom and practice.

3 "FEMA" means the Federal Emergency Management Agency, an agency  
4 of the federal government, that provides emergency grants and loans and other  
5 relief in times of disaster.

6 "GRO" means the Guam Recovery Office.

7 "Guam" means the Government of Guam or the Governor of Guam as  
8 indicated by the context.

9 "Lender" means a bank, or other lending institution that (either on-island  
10 or off-island) is successful in obtaining an award of the solicitation for a  
11 Request for Proposal pursuant to this Act. The Lender shall also be responsible  
12 for the LDEA.

13 "LDEA" means the Lender's Disaster Escrow Account, which is defined  
14 in Section 8 of this Act.

15 "LOC" means a revolving Line of Credit loan facility that can be drawn  
16 on multiple times, replenished in whole or in part, and drawn on again.

17 "PPP" means Public Purpose Projects which, in this Act, refers to PPPs  
18 where Guam is in critical need of money for emergency measures, capital  
19 improvements, renovations and general rehabilitation and administrative cost  
20 not resulting from the Disaster but identified during the Disaster assessment by  
21 DAT or otherwise.

22 "RFP" means a Request for Proposal which is a solicitation by Guam for  
23 a proposal by vendors, suppliers or service providers for goods or services, and  
24 is issued by the appropriate Guam procurement authority.

25 **Section 4. Procurement for LOC, Collateral, Terms and Conditions.**

1 Upon passage of this Act, the Guam Economic Development and Commerce  
2 Authority (GEDCA) shall immediately initiate preparation of solicitation documents *from*  
3 ~~for an RFP by~~ lenders. The solicitation shall require the Lender provide a credit  
4 facility in the form of a revolving LOC. The Lender must be willing to accept as the  
5 only collateral for the loans the FEMA grants generated as a result of a Disaster, for  
6 the federal portion of the FEMA grant, and the Section 30 funds or other assets for  
7 Guam's matching participation on the grant and interest and incidental charges to the  
8 LOC. Nothing stated herein shall preclude Guam and the Lender from entering into a  
9 different security arrangement, but Guam is not required to provide any more security  
10 or collateral for the loans as provided for in this Section 4. The interest that may be  
11 charged by the Lender for a draw down on the LOC shall have a seven (7) year  
12 maturity and bear interest at a commercially reasonable rate based on *prevailing* market rates.  
13 Any amounts not paid within seven (7) years, which includes interest, administrative  
14 costs, non-reimbursed ~~disaster related~~ DDT cost, together with loans of the matching funds or funding  
15 of PPP, may be rolled over into a long term loan pursuant to another RFP, with a term  
16 no longer than thirty (30) years, and a commercially reasonable interest rate based on *prevailing*  
17 market rates. All terms and conditions of the line of credit, and any agreement  
18 between Guam and GRO and the Lender pursuant to the RFP shall be subject to  
19 legislative approval.

20 **Section 5. Purposes and Authority of the DDT in the Disaster Process.**

21 Guam shall issue an RFP and execute a contract for services of DDT to be  
22 activated after the declaration of a federal disaster on Guam. The DDT, which shall be  
23 selected, organized, paid for and supervised by Guam, will perform the following  
24 duties. When a Disaster occurs, a DAT composed of Guam officials of the GRO  
25 appointed by the Governor, and federal officials from all relevant agencies will  
26 conduct a damage survey of Guam to examine and inspect the damage resulting from

I MINA'BENTE SAIS NA LIHESLATURAN GUAHAN

FLOOR AMENDMENTS/CHANGES

SBill No. 442

TCA

Senator Proposing Amendment

(Below for Senator to complete)

Please describe proposed amendment, including where change to occur:

p. 8 line 3 delete "for" replace with "based" on  
RFP; delete "by"  
line 11 & 16 delete "prevailing" between  
"based on "prevailing" market rates" ...  
line 14 insert "disaster related documented by"  
withdrawn

(Below only for Clerk of Legislature's use and processing))

Date 12/30, 2002

Floor Amendment No. 145th of a total of \_\_\_\_\_ changes on above Bill.

Votes For Amendment: \_\_\_\_\_ Votes Against Amendment: \_\_\_\_\_

AMENDMENT PASSED:

Amendment Failed: \_\_\_\_\_

Amendment Withdrawn: \_\_\_\_\_

APPROVED AS TO FORM PASSED

[Signature]

AUTHOR OF AMENDMENT

Concur (initial)

[Signature]  
Clerk of Legislature

Speaker

\_\_\_\_ Ass't. Amend. Clerk  
\_\_\_\_ Engrossment Staff



1 the Disaster. During the same period, all the highest official of each Guam agency  
2 will cause a report to the DAT of the extent and nature of the damage to property  
3 under the control or ownership of the agency.

4 All Guam personnel involved in recovery efforts of any kind, and particularly  
5 personnel of the GRO, shall at all times fully and completely cooperate with DDT,  
6 and shall provide to DDT all forms, documents, applications, photographs, statements,  
7 narratives and information derived from contacts with FEMA and other federal  
8 officials, as may be requested by DDT. Guam personnel working in disaster relief in  
9 any capacity shall be informed of the nature and purpose of the DDT, and the vital  
10 need for DDT's work so that Guam can draw down as soon as possible on the LOC.  
11 After completion of the DAT or any phase of the DAT, Guam personnel shall provide  
12 all information and documentation described in this Section 5 to DDT so that all  
13 information, applications or other documents to be provided through the GRO to  
14 FEMA to support and substantiate the requested assistance, will be in full compliance  
15 with FEMA laws, rules and regulations, and custom and practice. After DDT has  
16 completed any phase of its work, the documentation and related information shall be  
17 provided to the GRO for submission to FEMA. DDT shall implement a review  
18 process so that Guam, each of its agencies and the GRO have an opportunity to review  
19 the proposed DDT final set of documentation to FEMA to assure that the submission  
20 is accurate and complete. DDT shall then recommend to the Lender the amount of  
21 FEMA money reasonably expected to be obtained as a result of the disaster or any  
22 phase of the disaster that has been assessed and submitted to FEMA. Lender shall  
23 immediately process for drawdown on the LOC credit facility funds in the gross  
24 amount of the sum recommended by DDT for approval, subject to the provisions of  
25 Section 7 of this Act. The funds shall be transferred to the LDEA for distribution in

1 check form in the amounts allocated to Guam, an agency of Guam, a service provider  
2 or a vendor or supplier.

3 Draw down on the LOC shall require DDT to be in place.

4 **Section 6. Assignments.** To provide security for the Lender for the  
5 Guam loans under this Act, Guam shall assign the corresponding FEMA funds which  
6 are expected to be received. If an assignment is made to FEMA by Guam, to the full  
7 extent allowed by federal and Guam law, the proceeds of the FEMA disbursements  
8 assigned to the Lender shall be paid directly to the Lender.

9 **Section 7. Use of Funds.** The Governor is authorized, upon passage of  
10 this Act and without further approval, to draw on the LOC for emergency purposes to  
11 address the damage resulting from Disasters provided such projects have been  
12 received and approved for FEMA funding by FEMA; and for PPPs that have been  
13 evaluated and approved using FEMA Section 404 Hazard Mitigation Standards, and  
14 approved by the Legislature, which PPP draws shall be limited to the amount of the  
15 matching contribution Guam is required to make on the PPP or Disaster grants, which  
16 can range from 0% to 25% of the loan.

17 **Section 8. Lender's Disaster Escrow Account.** After submission of  
18 the FEMA required documentation by the DDT to the GRO and the request for a  
19 drawdown by Guam on the revolving LOC, the Lender shall pay the money to the  
20 LDEA, which will be through an escrow selected by Lender, through an escrow  
21 process performed directly by Lender, or by the Guam Department of Administration  
22 if Lender so elects. The LDEA shall determine that the proper amount of money is  
23 allocated and disbursed to Guam, a Guam agency, a service provider or supplier or  
24 vendor. The LDEA shall issue the physical checks in the amounts, and to Guam and  
25 to the entities, consistent with the process established by this Act.

1           **Section 9. Applicability of Act.**   This Act shall be applicable to all  
2 disasters occurring after December 1, 2001.

3           **Section 10. Lender May Use Tax Exempt Bonds.**   The Lender may use  
4 as a source of funds to make loans under the LOC, money from tax free bonds, if such  
5 tax free bonds are available for any portion of the loans of the Lender. Guam  
6 acknowledges and understands that at least as to the LOC loans repaid by the FEMA  
7 reimbursement, are not tax exempt, but the Lender may obtain tax exempt funds as a  
8 source of loans made and secured by Section 30 funds or other Guam assets, if  
9 available, so as to reduce the interest cost on the loans to Guam. However, Guam  
10 shall have no responsibility whatsoever for, or in connection with, repayment of the  
11 bonds, or any other requirements imposed by the bonds, which shall be the sole  
12 responsibility of the Lender. There shall be no contractual privity or relation between  
13 Guam and the bond holders or any one else that has responsibility under the bonds.

14           **Section 11.** There is hereby appropriated annually from the General Fund the  
15 amount necessary to fully fund the debt service on the local matching funds required  
16 and incidental charges of the line of credit proceeds used for such purposes.

17           **Section 12. Severability.**    *If* any provision of this Law or its application to  
18 any person or circumstance is found to be invalid or contrary to law, such invalidity  
19 *shall* not affect other provisions or applications of this Law which can be given effect  
20 without the invalid provisions or application, and to this end the provisions of this  
21 Law are severable.