



CARL T.C. GUTIERREZ  
GOVERNOR OF GUAM


OCT 02 2001

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

Dear Legislative Secretary Brown:


Enclosed please find Bill No. 83 (LS) entitled: "AN ACT TO AMEND § 4 OF P.L. NO. 24-141 AND § 2.05(a) OF THE RULES AND REGULATIONS OF GEDA, RELATIVE TO THE OPERATION OF THE GUAM RACEWAY PARK AND ON THE ISSUANCE OF TAX CREDITS FOR IT'S DESIGN AND CONSTRUCTION" which was enacted into law without the signature of the Governor. This legislation is now designated as **Public Law No. 26-37.**

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

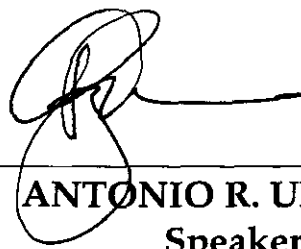
OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	1:00 PM
Date	10/2/01

0492


**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN**


This is to certify that Bill No. 83 (LS), "AN ACT TO AMEND § 4 OF P.L. NO. 24-141 AND § 2.05(a) OF THE RULES AND REGULATIONS OF GEDA, RELATIVE TO THE OPERATION OF THE GUAM RACEWAY PARK AND ON THE ISSUANCE OF TAX CREDITS FOR IT'S DESIGN AND CONSTRUCTION," was on the 14<sup>th</sup> day of September, 2001, 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 Guåhan* this 19 day of Sep., 2001,  
at 5:45 P.M. o'clock     .M.

  
\_\_\_\_\_  
Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

\_\_\_\_\_  
**CARL T. C. GUTIERREZ**  
*I Maga'lahaen Guåhan*

Date: October 2, 2001

Public Law No. 26-37

*Became law without the signature  
of I Maga'Lahaen Guahan, the  
Governor of Guam*

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

**Bill No. 83 (LS)**

As amended on the Floor.

Introduced by:

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

**AN ACT TO AMEND § 4 OF P.L. NO. 24-141 AND § 2.05(a) OF THE RULES AND REGULATIONS OF GEDA, RELATIVE TO THE OPERATION OF THE GUAM RACEWAY PARK AND ON THE ISSUANCE OF TAX CREDITS FOR IT'S DESIGN AND CONSTRUCTION.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 finds that the interpretation of Rule 2.05 of the Administrative Rules and  
4 Regulations of the Guam Raceway Park relating to the perceived  
5 requirement that tax credits must be amortized over a three (3) year period  
6 to be (i) administratively burdensome and (ii) may lead to higher than  
7 necessary construction costs.

1           In the preparation of the Rules and Regulations as enacted by Public  
2 Law Number 25-27, it was assumed that most of the contributions for  
3 which tax credits would be authorized would be made on an upfront basis.  
4 In approving the Rules on the application of credits, *I Liheslaturan Guåhan*  
5 intended that such upfront contributions might result in large single-  
6 period tax credits that may adversely affect government of Guam revenues  
7 and therefore must be spread over time.

8           In the course of constructing the project, *however*, the exact opposite  
9 has been found to be true. Most contributions are made in small amounts  
10 over extended periods of time rather than on an upfront basis, and  
11 developers believe that the actual contributions will actually be made over  
12 a six (6) year period. As such, the possibility of having large credits  
13 adversely affecting revenues will *not* happen. *I Liheslaturan Guåhan* has  
14 also found that because such contributions are made over time, the present  
15 intended practice of spreading out credits over three (3) years would need  
16 to be done for each separate contribution, which may result in an  
17 administrative nightmare. For example, an engineering firm contributing  
18 work in which it pays its employees on a bi-weekly basis would have  
19 twenty-six (26) separate three (3) year credit amortization schedules per  
20 year.

21           *I Liheslaturan Guåhan* further finds that because of the slow economy,  
22 many contractors and suppliers, *especially* small contractors and suppliers,  
23 cannot afford to carry the cost over a three (3) year period, and as such, a  
24 financing component may be required, thus increasing the cost of the  
25 project.

1            *I Liheslaturan Guåhan* believes that the six (6) year completion time, in  
2 which costs are expected to be spread evenly and the project's statutory  
3 credit cap, will be sufficient to prevent the application of credits in a  
4 manner that will adversely affect government revenues.

5            It is the intent of *I Liheslaturan Guåhan* to amend the Rules and  
6 Regulations for the Guam Raceway Park to allow the Guam Economic  
7 Development Authority the flexibility to authorize a tax credit on an  
8 *immediate, up-front* basis.

9            **Section 2.** Section 4 of Public Law Number 24-141 is hereby *amended*  
10 to read as follows:

11            **"Section 4.            Application of Tax Credits.**            All            tax  
12 credits to corporations or individuals derived under this Act shall be  
13 recovered *either* as a single up-front credit or on a straight-line basis  
14 over a period *not to exceed* three (3) years. The *maximum* amount of  
15 eligible credits taken in a year shall *not* exceed One Million Five  
16 Hundred Thousand Dollars (\$1,500,000) per year. Unused credits  
17 may be carried forward for future years' taxes until exhausted."

18            **Section 3.    Change to Administrative Rules and Regulations.**  
19 Section 2.05(a) of the "Rules and Regulations of the Guam Economic  
20 Development Authority on the Operation of the Guam Raceway Park and  
21 on the Issuance of Tax Credits for It's Design and Construction," as  
22 approved in Public Law Number 25-27, is hereby *amended* to read as  
23 follows:

24            **"(a)    Credit.**            *If* the Administrator determines that the terms  
25 and conditions stipulated in the Certificate have been met, GEDA

1 shall forward to the Department of Revenue and Taxation  
2 ('Department'), a tax credit memorandum with a schedule detailing  
3 the tax credit to be given, *either* as an immediate, up-front single  
4 credit, or as a series of payments over a period *not to exceed* three (3)  
5 years. The Administrator shall have the authority to determine the  
6 timeframes on how the credits are applied, *however*, the Board of  
7 Directors of GEDA shall have final appellate jurisdiction on the  
8 application of credits in this Section."

6

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 9/14/01

## VOTING SHEET

Bill No. 83(LS)

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

Question: \_\_\_\_\_

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. <u>///</u>		* ✓			
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

10     5     0     0     0

CERTIFIED TRUE AND CORRECT:

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

\* 3 Passes = No vote  
EA = Excused Absence



THE OFFICE OF  
**Senator Felix P. Camacho**  
TWENTY-SIXTH GUAM LEGISLATURE

June 29, 2001

The Honorable Antonio R. Unpingco  
Speaker  
I Mina' Bente Sais Na Liheslaturan Guahan  
155 Hessler Street  
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Tourism, Transportation and Economic Development, to which was referred **Bill No. 83 (LS)**, "AN ACT TO AMEND SECTION 4 OF PUBLIC LAW 24-141 AND ITEM (a) OF SECTION 2.05 OF THE 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 AS APPROVED BY PUBLIC LAW 25-27 RELATIVE TO GRANTING THE GEDA ADMINISTRATOR THE FLEXIBILITY TO APPLY ALLOWABLE TAX CREDITS TO MINIMIZE CONSTRUCTION AND ADMINISTRATIVE COSTS ASSOCIATED WITH THE GUAM RACEWAY PARK," does hereby report back with the recommendation **TO DO PASS**.

The Committee votes are as follows:

- 7   **To Pass**
- Not To Pass**
- To The Inactive File**
- Abstained**
- Off-Island**
- Not Available**

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

Sincerely,

Felix P. Camacho



COMMITTEE REPORT

ON

BILL NO. 83(LS)

“AN ACT TO AMEND SECTION 4 OF PUBLIC LAW 24-141 AND ITEM (a) OF SECTION 2.05 OF THE 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 AS APPROVED BY PUBLIC LAW 25-27 RELATIVE TO GRANTING THE GEDA ADMINISTRATOR THE FLEXIBILITY TO APPLY ALLOWABLE TAX CREDITS TO MINIMIZE CONSTRUCTION AND ADMINISTRATIVE COSTS ASSOCIATED WITH THE GUAM RACEWAY PARK.”

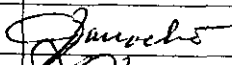
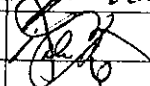
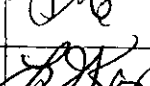
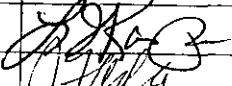
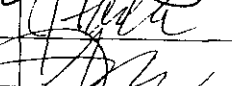
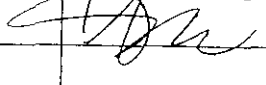
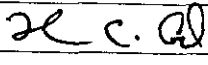
COMMITTEE MEMBERS

Chairman: Felix P. Camacho  
Vice Chairman: Kaleo Moylan  
Ex-Officio Member: Antonio R. Unpingco

Larry Kasperbauer  
Joseph Ada  
Mark Forbes  
Eddie Baza Calvo  
Mark Charfauros  
Ben Pangelinan  
Tom Ada  
Lou Leon Guerrero

# VOTING SHEET

BILL 83 (LS)

RECOMMENDATION TO						
COMMITTEE MEMBERS	SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	INACTIVE FILE
Senator Felix Camacho		✓				
Senator Kaleo Moylan		✓				
Speaker Tony Unpingco		✓				
Vice Speaker Larry Kasperbauer		X				
Senator Joseph Ada		✓				
Senator Mark Forbes		✓				
Senator Eddie Baza Calvo						
Senator Mark Charfauros						
Senator Ben Pangelinan						
Senator Tom Ada		✓				
Senator Lou Leon Guerrero						

COMMITTEE REPORT  
TOURISM, TRANSPORTATION AND ECONOMIC  
DEVELOPMENT

**BILL NO. 83(LS)**

“AN ACT TO AMEND SECTION 4 OF PUBLIC LAW 24-141 AND ITEM (a) OF SECTION 2.05 OF THE 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 AS APPROVED BY PUBLIC LAW 25-27 RELATIVE TO GRANTING THE GEDA ADMINISTRATOR THE FLEXIBILITY TO APPLY ALLOWABLE TAX CREDITS TO MINIMIZE CONSTRUCTION AND ADMINISTRATIVE COSTS ASSOCIATED WITH THE GUAM RACEWAY PARK.”

**I. PUBLIC HEARING**

The Committee on Tourism, Transportation and Economic Development held a public hearing on June 19th, at 10 a.m. to hear testimony on Bill No. 83(LS), “AN ACT TO AMEND SECTION 4 OF PUBLIC LAW 24-141 AND ITEM (a) OF SECTION 2.05 OF THE 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 AS APPROVED BY PUBLIC LAW 25-27 RELATIVE TO GRANTING THE GEDA ADMINISTRATOR THE FLEXIBILITY TO APPLY ALLOWABLE TAX CREDITS TO MINIMIZE CONSTRUCTION AND ADMINISTRATIVE COSTS ASSOCIATED WITH THE GUAM RACEWAY PARK.”

The hearing was called to order by Senator Felix P. Camacho, Chairman of the Committee on Tourism, Transportation and Economic Development. Members present included Vice Speaker Larry Kasperbauer and Senators Kaleo Moylan, Tom Ada, Mark Charfauros and Ben Pangelinan.

Present to testify was Mr. Henry Simpson.

**II. TESTIMONY**

**Henry Simpson, President of Guam Racing Federation.**

Mr. Simpson testified in favor of Bill 83, which he said refers to a situation in the enabling legislation for funding of the raceway park. When the original legislation was written, it was assumed that one large contractor could step up and do the whole project, perhaps with some subcontractors, he said.

The reality has been it's been very difficult to get contractors to do this, but this bill clears up the ambiguity between the enabling legislation and the rules and regulations, Mr. Simpson said.

The GEDA rules and regulations allow contractors to take credits/tax rebates on an as-earned basis, which makes sense as most of the projects have been divided and are much smaller than the work for the entire raceway park, he continued.

However, the rules conflict with the law, which requires the credits to be divided into 36 monthly payments. That requirement is an administrative burden for the Department of Revenue and Taxation and drives away the contractors who would be able to perform the work at cost, Mr. Simpson said.

Sen. Tom Ada asked how much the project is worth and how much has already been spent.

Mr. Simpson replied that about \$700,000 worth of work has been done, to clear portions of the track and prepare the off road track for the Smokin' Wheels Races in early August. He added that the bill limits the project to about \$9 million over six years.

Sen. Ada repeated the figure, to confirm that there is a definite cap, of \$9 million over 6 years, for both the amount and the time limit.

Sen. Ben Pangelinan questioned the need for the bill, noting that it will be better to amortize the credits over three years.

Mr. Simpson said the original intent was to protect the government from a one-time hit of \$9 million, which is the cost of the entire project. But that legislation was written almost 8 years ago in better economic times, and now none of the contractors could take that \$9 million up front anyway, he said.

Most of the project is being done in small, \$50,000 increments, and the requirement to spread that over 3 years will make the project more expensive to build, Mr. Simpson said. Bill 83 would make the smaller projects easier to track and help encourage contractors to help, he added.

Sen. Pangelinan said the government is facing a \$30 million shortfall in terms of the needs of the government and must avoid diverting resources.

Mr. Simpson said if one contractor could do the work, it would still amount to no more than \$1.5 million per year.

Sen. Pangelinan said the raceway project is getting priority over everything else through the rebates. The government doesn't ever receive the money so it can't prioritize it, he said.

Mr. Simpson said the racetrack will help the economy by providing a new attraction for tourists. Upcoming races will feature racers and media reps from Japan and the U.S. mainland, and a motorcycle race for early 2002 could draw over 300 Japanese racers. He said the raceway needs to get going as quickly as possible in these tough economic times, because it will provide new options and new attractions for visitors.

Sen. Felix Camacho asked if the major investments in the park have already been made or still need work.

Mr. Simpson said the asphalt raceways, buildings and other large projects are still 2 or 3 years away, but the off-road sections can be used sooner.

Sen. Camacho said Bill 83 seems to make sense to help get the project going. Later, when the larger and more expensive projects are ready to go, it may make sense to revisit the legislation, but for the incremental projects, Bill 83 makes sense, he said.

### **III. FINDINGS**

The Committee finds that Bill No. 83 will lift the administrative constraints on the tax credits and will help the Guam Raceway Park avoid higher than necessary construction costs.

### **IV. RECOMMENDATIONS**

The Committee on Tourism, Transportation and Economic Development hereby reports out Bill No. 83(LS) with the recommendation ***TO DO PASS***.



# MINI BENTE SAIS NA LIHESLATURAN GUAHAN

Kumitehan Areklamento, Hinanao Gubetnamenton Hinirát, Rifotma yan Rinueba,  
yan Asuntón Fidirát, Taotao Hiyóng yan Hinirát

Senadot Mark Forbes, Gehilu  
Kabisiyon Mayurát

01 JUN 2001

## MEMORANDUM

TO: Chairman  
Committee on Tourism, Transportation and Economic Development

FROM: Chairman  
Committee on Rules, General Governmental Operations, Reorganization and  
Reform, and Federal, Foreign and General Affairs

SUBJECT: Principal Referral – Bill No. 83 (LS)

The above bill is referred to your Committee as the Principal Committee, in accordance with Section 6.04.05.01. of the Standing Rules. Your Committee is the Committee authorized to perform the public hearing on this bill and to amend or substitute the bill, as well as report the bill out to the Body. It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

*Aug 4/5 Smoking wheels*





*Contractors :*

- Difficult doing it @ cost →*
- 36 monthly payments.*

**MINA' BENTE SAIS NA LIHESLATURAN GUÅHAN**  
**2001 (FIRST) Regular Session**

Bill No. 83(LG)

Introduced by:

L.F. Kasperbauer   
F.P. Camacho   
K.S. Moylan   
M.C. Charfauros 

**AN ACT TO AMEND SECTION 4 OF PUBLIC LAW 24-141  
AND ITEM (a) OF SECTION 2.05 OF THE 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 AS  
APPROVED BY PUBLIC LAW 25-27 RELATIVE TO  
GRANTING THE GEDA ADMINISTRATOR THE  
FLEXIBILITY TO APPLY ALLOWABLE TAX CREDITS TO  
MINIMIZE CONSTRUCTION AND ADMINISTRATIVE  
COSTS ASSOCIATED WITH THE GUAM RACEWAY PARK.**

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

2

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

4           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds  
5 that the interpretation of Rule 2.05 of the Administrative Rules and Regulations of  
6 the Guam Raceway Park relating to the perceived requirement that *tax credits*  
7 *must be amortized over a three-year period* to be (1) administratively burdensome  
8 and (2) may lead to higher than necessary construction costs.

9           In the preparation of the Rules and Regulations as enacted by Public Law  
10 25-27, it was assumed that most of the contributions for which tax credits would

1 be authorized would be made on an *upfront* basis. In approving the Rules on the  
2 application of credits, *I Liheslatura* had intended that such upfront contributions  
3 might result in large single-period tax credits that may adversely affect Gov Guam  
4 Revenues and therefore must be spread over time. In the course of constructing  
5 the project, however, the exact opposite has been found to be true. Most  
6 contributions are made in small amounts over extended periods of time rather than  
7 on an upfront basis and developers believe that the actual contributions will  
8 actually be made over a six-year period. As such, the possibility of having large  
9 credits adversely affecting revenues will not happen. *I Liheslatura* has also found  
10 that because such contributions are made over time, the present intended practice  
11 of spreading out credits over three years would *need to done for each separate*  
12 *contribution* which may result in an administrative nightmare. For example, an  
13 engineering firm contributing work in which it pays its employees on a bi-weekly  
14 basis would have 26 separate 3-year credit amortization schedules per year.

15 *I Liheslatura* further finds that because of the slow economy, many  
16 contractors and suppliers (especially small contractors and suppliers) can not  
17 afford to carry the cost over a three-year period and as such, a financing  
18 component may be require thus increasing the cost of the project.

19 *I Liheslatura* believes that the six year completion time in which cost are  
20 expected to be spread evenly and the project's statutory credit cap will be  
21 sufficient to prevent the application of credits in a manner that will adversely  
22 affecting Government Revenues.

23 It is the intent of *I Liheslatura* to amend the Rules and Regulations for the  
24 Guam Raceway Park to allow the Guam Economic Development Authority the  
25 flexibility to authorize on an immediate upfront basis.

26



1           **Section 2.** Section 4 of Public Law 24-241 is hereby amended to read

2           **"Section 4. Periodic Application of Tax Credits Over ~~Three (3) Years.~~**

3 All tax credits to corporations or individuals derived under this Act shall be  
4 recovered either as a single upfront credit or on a straight-line basis over a period  
5 of not to exceed three (3) years. ~~If the total amount of expenditures is not~~  
6 ~~recovered through tax credits within this three (3) year period, to the balance~~  
7 ~~carried over shall be applied to~~ Unused credits may be carried forward for future  
8 years taxes until exhausted."

9  
10           **Section 3. Change to Administrative Rules and Regulations.** Item (a) of  
11 Section 2.05 of RULES AND REGULATIONS OF THE GUAM ECONOMIC  
12 DEVELOPMENT AUTHORITY ON THE OPERATION OF THE GUAM  
13 RACEWAY PARK AND ON THE ISSUANCE OF TAX CREDITS FOR IT'S  
14 DESIGN AND CONSTRUCTION as approved by Public Law 25-27 is hereby  
15 amended to read.

16  
17           **"(a) Credit.**     If the Administrator determines that the terms and  
18 conditions stipulated in the Certificate have been met, GEDA shall forward to the  
19 Department of Revenue and Taxation ("Department"), a tax credit memorandum  
20 with a schedule detailing the tax credit to be given either as an immediate *upfront*  
21 *single credit* or as a series of payments over ~~not more than~~ a period *not to exceed*  
22 three (3) years ~~period determined on a straight-line basis or under a three (3) year~~  
23 ~~amortization schedule, whichever method results in a smaller tax credit.~~ The  
24 Administrator shall have the authority to determine the timeframes on how the  
25 credits are applied, however, the Board of Directors the Guam Economic

- 1 Development Authority shall have *final appellate jurisdiction* on the application
- 2 of credits herein this Section."