


OCT 17 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 Substitute Bill No. 003 (COR) "AN ACT TO REPEAL AND REENACT § 1203.1 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO AGREEMENTS BETWEEN THE A. B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY AND CONCESSIONAIRES, AIRLINES AND OTHER BUSINESSES" which was **vetoed** and subsequently overridden by the Legislature. This legislation is now designated as **Public Law No. 26-51**.

Very truly yours,

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

Attachments: original bill for vetoed legislation or  
copy of bill for signed or overridden legislation  
and legislation enacted without signature

cc: The Honorable Antonio R. Unpingco  
Speaker

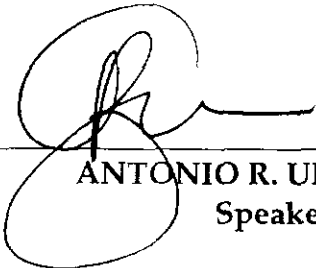
LEGISLATIVE SECRETARIAT
RECEIPT

5-32
10/17/01

534


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

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

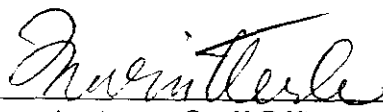
This is to certify that Substitute Bill No. 3 (COR), "AN ACT TO REPEAL AND REENACT §1203.1 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO AGREEMENTS BETWEEN THE A. B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY AND CONCESSIONAIRES, AIRLINES AND OTHER BUSINESSES," returned without approval of *I Maga'lahaen Guåhan*, was reconsidered by *I Liheslaturan Guåhan* and after such consideration, did agree, on the 15<sup>th</sup> day of October, 2001, to pass said bill notwithstanding the veto of *I Maga'lahaen Guåhan* by a vote of Twelve (12) members.

  
ANTONIO R. UNPINGCO  
Speaker

Attested:

  
JOANNE M.S. BROWN  
Senator and Legislative Secretary

-----  
This Act was received by *I Maga'lahaen Guåhan* this 16<sup>th</sup> day of October  
2001, at 4:30 o'clock P.M.

  
Assistant Staff Officer  
*Maga'lahaen*'s Office

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

**Bill No. 3 (COR)**

As substituted by the  
Committee on Tourism, Transportation  
and Economic Development and as further  
substituted and amended on the Floor.

Introduced by:

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

**AN ACT TO *REPEAL AND REENACT* §1203.1 OF  
TITLE 12 OF THE GUAM CODE ANNOTATED,  
RELATIVE TO AGREEMENTS BETWEEN THE A.  
B. WON PAT GUAM INTERNATIONAL AIRPORT  
AUTHORITY AND CONCESSIONAIRES,  
AIRLINES AND OTHER BUSINESSES.**

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*

3 recognizes that the A. B. Won Pat Guam International Airport Authority  
4 (“ABWPGIAA”) needs a continual revenue stream for its operations and for  
5 addressing bond obligation payments. Payments from vendors with  
6 concessionaire agreements with ABWPGIAA are a substantial portion of its  
7 revenues, and some vendors have expressed an interest in extending existing  
8 lease arrangements.

9           Lease extensions are common in other jurisdictions to compensate for an  
10 airport’s delayed opening. Given the uncertainty of our immediate economic  
11 future, and the eighteen (18) month delay in the opening of our new terminal,  
12 *I Liheslaturan Guåhan* finds that some lease extensions will benefit *both*  
13 ABWPGIAA and vendors. Any extensions would be subject to review and  
14 consideration by *I Liheslaturan Guåhan*.

15           Though some lease extensions may benefit the community, *I*  
16 *Liheslaturan Guåhan* finds that the concept of a Master Food and Beverage  
17 Concessionaire has outlived its usefulness. ABWPGIAA is capable of  
18 overseeing individual concessionaires and stands to realize additional  
19 revenue from food and beverage concessions, *if* these contracts are opened for  
20 public bid.

21           **Section 2.** Section 1203.1 of Article 2, Chapter 1 of Title 12 of the Guam  
22 Code Annotated is hereby *repealed and reenacted* to read as follows.

1           “Section 1203.1. Agreements    Between    ABWPGIAA    and  
2    Concessions, Other Businesses and Service Providers; Agreements  
3    Between ABWPGIAA and Airlines.

4           (a) Any agreement between the ABWPGIAA and any  
5    other party concerning the operation of a concession, other  
6    business or a service provider at ABWPGIAA shall conform to the  
7    following:

8           (i) allow for an *exclusive* right to sell certain goods  
9    or provide certain services *only* after a competitive proposal  
10   procedure, according to the General Services Administration  
11   rules and regulations, and for a duration of *no longer than*  
12   five (5) years (Any exclusive right for a duration of longer  
13   than five (5) years shall be given by the ABWPGIAA to any  
14   party *only* upon subsequent approval by *I Liheslaturan*  
15   *Guåhan* by statute.);

16          (ii) criteria established for the operation of a  
17   concession, other business or service provider at the  
18   ABWPGIAA, which criteria shall be reviewed at a public  
19   hearing held within ninety (90) days of the effective date of  
20   this Section, and held in accordance with the Administrative  
21   Adjudication Law;

22          (iii) *not* be extended in duration or otherwise  
23   modified, *unless* the extension or other modification  
24   conforms to the requirements of this Section

1 (Notwithstanding the forgoing sentence, the exclusive  
2 concessionaire agreement between the ABWPGIAA and  
3 DFS, in effect on the effective date of this Section, modified  
4 by a memorandum of understanding, shall be modified  
5 again, but *not* extended in duration of term, pursuant to the  
6 cooperative efforts of the parties to reach a mutual  
7 understanding in the best interests of the People of Guam.);  
8 *and*

9 (iv) in order to maximize local participation in  
10 concession businesses at the ABWPGIAA, the ABWPGIAA  
11 shall abide by the competitive bid process, to the extent  
12 consistent with good business practice, and make available  
13 the maximum number of opportunities for local businesses  
14 to provide concession goods and services at the  
15 ABWPGIAA.

16 (b) Any agreement between ABWPGIAA and any airline  
17 offering service to Guam shall charge the airline using the  
18 ABWPGIAA air terminal facilities rates sufficient to cover the  
19 operating expenses of the air terminal and debt service coverage  
20 of the bonds authorized to be issued by this Section, and be in  
21 compliance with the requirement that no one (1) or more airlines  
22 shall be unreasonably discriminated against in comparison with  
23 any other airline in these charges.

24 (c) Notwithstanding any other provision of law, the  
25 ABWPGIAA is authorized to enter into individual leases or

1 agreements with those tenants currently operating food and  
2 beverage concessions at the ABWPGIAA as of February 28, 2001,  
3 for a period or term *not* to exceed two (2) years from January 1,  
4 2002 under terms and conditions agreed upon between  
5 ABWPGIAA and the tenants; provided, however, this Section  
6 does *not* authorize an extension or renewal of any existing Master  
7 Food and Beverage Concession Agreement or lease.

8 (d) Notwithstanding Subsection (a) of this Section, the  
9 ABWPGIAA is authorized to enter into an agreement to extend  
10 the current exclusive DFS Concession Agreement one (1) time *only*  
11 for a period or term *not to exceed* two (2) years from January 20,  
12 2002. Any such agreement shall still be subject to approval by *I*  
13 *Liheslaturan Guåhan*, and shall provide that annual payment  
14 during the period of the extension shall be *no less than* the sum of  
15 Eight Million Dollars (\$8,000,000), or twenty percent (20%) of  
16 gross sales at the ABWPGIAA, whichever is greater, and ten  
17 percent (10%) of gross sales at non- ABWPGIAA -owned facilities  
18 where passengers are checked in for outgoing airline flights from  
19 Guam.

20 The extension of the DFS Concession Agreement shall be  
21 submitted to *I Liheslaturan Guåhan* for approval *no later than*  
22 September 30, 2001. *I Liheslaturan Guåhan* shall have forty-five (45)  
23 days upon receipt of the proposal to act on the approval or  
24 disapproval of the concessionaire agreement. Inaction by *I*

1            *Liheslaturan Guåhan* within the designated timeframe shall  
2            constitute approval."

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



*Overrider*

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 10/15/01

## VOTING SHEET

*Vetoed*  
5 Bill No. 3

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

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

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	<i>4</i>	<i>✓</i>			
ADA, Thomas C. <i>11</i>	<i>✓</i>				
AGUON, Frank B., Jr.	<i>✓</i>				
BROWN, Joanne M. S. <i>11</i>	<i>✓</i>				
CALVO, Eddie B. <i>1</i>	<i>✓</i>				
CAMACHO, Felix P.			<i>excused</i>		
CHARFAUROS, Mark C.	<i>✓</i>				
FORBES, Mark			<i>excused</i>		
KASPERBAUER, Lawrence F.	<i>✓</i>				
LEON GUERRERO, Lourdes A.	<i>✓</i>				
MOYLAN, Kaleo S. <i>11</i>	<i>✓</i>				
PANGELINAN, Vicente C.	<i>✓</i>				
SANTOS, Angel L.G.	<i>✓</i>				
UNPINGCO, Antonio R.	<i>✓</i>				
WON PAT, Judith T. <i>11</i>	<i>✓</i>				

TOTAL

*17* ~~*18*~~ *1* *2* \_\_\_\_\_

CERTIFIED TRUE AND CORRECT:

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

\* 3 Passes = No vote  
EA = Excused Absence

JUN 13 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 Substitute Bill No. 003 (COR) entitled: "AN ACT TO REPEAL AND REENACT §1203.1 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO AGREEMENTS BETWEEN THE A. B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY AND CONCESSIONAIRES, AIRLINES AND OTHER BUSINESSES" which I have **vetoed**.

This legislation was thoroughly reviewed by the A. B. Won Pat Guam International Airport Authority and the following items were noted:

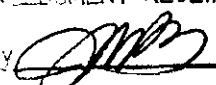
1. The criteria for the master concessionaires provided in this legislation was already addressed in prior legislation, and the provisions are therefore redundant.
2. The legislation dictates the terms and conditions of extension of current agreements, which at a later point in time may not be financially feasible or legal. The legislation precludes a negotiated business arrangement in the best interest of the parties.
3. The legislation calls for legislative approval of extension amendments, micromanaging the potential arrangements.

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

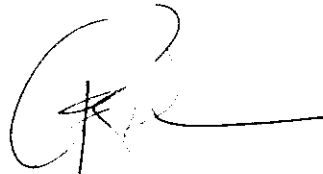
THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received by 
Date <u>6/13/01</u>

0257

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

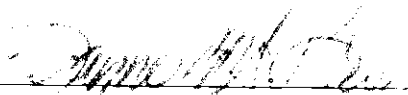
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 003 (COR) "AN ACT TO REPEAL AND REENACT §1203.1 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO AGREEMENTS BETWEEN THE A. B. WON PAT GUAM INTERNATIONAL AIRPORT AUTHORITY AND CONCESSIONAIRES, AIRLINES AND OTHER BUSINESSES," was on the 31<sup>st</sup> day of May, 2001, duly and regularly passed.



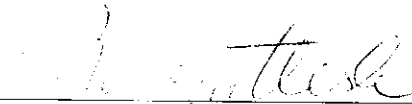
ANTONIO R. UNPINGCO  
Speaker

Attested:



JOANNE M.S. BROWN  
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 31<sup>st</sup> day of June, 2001,  
at 7:55 o'clock P.M.



Assistant Staff Officer  
*Maga'lahi's Office*

APPROVED:

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

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

# I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 5/31/01

## VOTING SHEET

5 Bill No. 3 (COR)

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.      //	✓				
CALVO, Eddie B.            //	✓				
CAMACHO, Felix P.			<i>excused</i> ✓		
CHARFAUROS, Mark C.		✓			
FORBES, Mark			<i>excused</i> ✓		
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      2      2      0      1

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

April 9, 2001

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

Dear Mr. Speaker:

The Committee on Tourism, Transportation and Economic Development, to which was referred **Bill No. 3 (COR)**, "An act relative to acknowledging Guam's challenging economic condition, thus granting the Antonio B. WonPat International Airport Authority the authorization to extend existing concessionaire agreements; in an effort to maximize the use of the facility by airport patrons, and to insure a continual revenue stream for its operations and for addressing bond obligation payments," does hereby report back with the recommendation **TO DO PASS as substituted by the Committee.**

The Committee votes are as follows:

- 8   **To Pass**
- 2   **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,

Senator Felix P. Camacho

Office of the Speaker  
 ANTONIO R. UNPINGCO  
 Date: 04-09-01  
 Time: 1330  
 Filed by: \_\_\_\_\_  
 File Name:

COMMITTEE REPORT

ON

BILL NO. 3(COR)

“An act relative to acknowledging Guam’s challenging economic condition, thus granting the Antonio B. WonPat International Airport Authority the authorization to extend existing concessionaire agreements; in an effort to maximize the use of the facility by airport patrons, and to insure a continual revenue stream for its operations and for addressing bond obligation payments.”

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

COMMITTEE REPORT  
TOURISM, TRANSPORTATION AND ECONOMIC  
DEVELOPMENT

**BILL NO. 3(COR)**

“An act relative to acknowledging Guam’s challenging economic condition, thus granting the Antonio B. WonPat International Airport Authority the authorization to extend existing concessionaire agreements; in an effort to maximize the use of the facility by airport patrons, and to insure a continual revenue stream for its operations and for addressing bond obligation payments.”

**I. PUBLIC HEARING**

The Committee on Tourism, Transportation and Economic Development held a public hearing on January 29<sup>th</sup>, at 10 a.m. to hear testimony on Bill No. 3(COR), “An act relative to acknowledging Guam’s challenging economic condition, thus granting the Antonio B. WonPat International Airport Authority the authorization to extend existing concessionaire agreements; in an effort to maximize the use of the facility by airport patrons, and to insure a continual revenue stream for its operations and for addressing bond obligation payments.”

The hearing was called to order by Senator Felix P. Camacho, Chairman of the Committee on Tourism, Transportation and Economic Development. Members present included Senators Kaleo Moylan, Joseph Ada, Ben Pangelinan, Lou Leon Guerrero and Tom Ada. Senators Judy WonPat and Frank Aguon were guests.

Present to testify were: Mr. Gerald Yingling, Mr. Matt Johnson, Mr. Gerald Perez, Mr. Joe Camacho, Mr. Peter Nelson and Mr. Ying H. Huang.

**II. TESTIMONY**

**Mr. Gerald Yingling**, representing the Guam International Airport Authority, testified in favor of Bill. No. 3. He said the bill gives him more flexibility in dealing with the leases at the airport and will help his agency.

**Mr. Matt Johnson**, representing JMC Inc, testified in favor of Bill. No. 3. He said the bill would have a direct impact on him. He said the bill gives the authority back to the airport to enter into negotiations directly with the vendors. He said lease extensions like this are not unusual. He said the legislation would help them recoup their losses that have occurred over the last few years. Mr. Johnson suggested that the Committee create legislation that would do away with the Master Food and Beverage Agreement. He said

they pay 5 percent of their gross revenues to Lufstana, which does not do anything for the vendors and has no input, suggestions or help. Johnson would rather deal with the airport directly and use the 5 percent for airport beautification. In conclusion, he said the renewal of the leases is good, but said the master food and beverage agreement is not productive and he does not want to see it renewed.

**Mr. Gerald S.A. Perez and Joe Camacho**, representing DFS, testified in favor of Bill No. 3. Mr. Perez said the lease extension will generate additional income to the airport to help keep down the passenger fees. He said DFS is prepared to invest additional funds into the spaces at the airport, but they would need enough time to amortize the investment. He said the enhancements they will provide at the airport would create a more engaging, entertaining and passenger-friendly environment that will impact positively upon the traveler's experience at the airport. Perez said enacting Bill No. 3 into law does not guarantee the extensions, but gives GIAA the opportunity to do so.

**Mr. Peter Nelson**, representing Guam Rehab, testified in favor of Bill No. 3. He said the people with disabilities in his organization have a travel accessories store at the airport. He says DFS President Gerald Perez has assured him that if the lease extensions are granted, DFS will enhance their concessions and they will be relocated to a better location.

**Mr. Ying H. Huang**, representing Guam Audio Vision Center, testified in favor of Bill No. 3. He said his company is a sub-concessionaire of DFS and noted that the bill would allow the airport flexibility in reasonably and responsibly addressing current concessionaire agreements during these challenging economic times. He said the passage of Bill No. 3 would enhance his company's continued success and facilitate positive growth through these current economic times.

### **III. FINDINGS**

The Committee finds that the substituted version on Bill No. 3 (COR) is the most appropriate measure to address the concerns of the vendors, the Guam International Airport Authority, *I Mina' Bente Sais Na Liheslaturan Guahan* and the community.

### **IV. RECOMMENDATIONS**

The Committee on Tourism, Transportation and Economic Development hereby reports out Bill No. 3(COR), as substituted by the Committee with the recommendation ***TO DO PASS***.



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

Bill No. 3 (COR)  
(As substituted by Committee)

Introduced by:

F.B. Aguon Jr.  
\_\_\_\_\_

AN ACT TO REPEAL AND RE-ENACT SECTION  
1203.1 OF ARTICLE 2, CHAPTER 1, OF TITLE 12 OF  
THE GUAM CODE ANNOTATED RELATIVE TO  
AGREEMENTS BETWEEN GIAA AND  
CONCESSIONS, OTHER BUSINESSES AND SERVICE  
PROVIDERS; AGREEMENTS BETWEEN GIAA AND  
AIRLINES.

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

2           **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*  
3 recognizes that the Guam International Airport Authority (GIAA) needs a continual  
4 revenue stream for its operations and for addressing bond obligation payments.  
5 Payments from vendors with concessionaire agreements with the authority are a  
6 substantial portion of its revenues, and some vendors have expressed an interest in  
7 extending existing lease arrangements.

8           Lease extensions are not uncommon in other jurisdictions, where airports may  
9 extend leases to allow businesses to invest additional capital in their facilities. Such

1 arrangements have recently been made in Atlanta, Los Angeles, Portland, Los  
2 Angeles, Newark and other areas. While many extensions were granted to allow  
3 operators sufficient amortization for costs associated with upgrades, the Denver  
4 airport extended leaseholds to compensate for that airport's delayed opening. Given  
5 the uncertainty of our immediate economic future, the 18-month delay in the opening  
6 of our new terminal, and the desire of existing vendors to invest additional capital in  
7 their airport space, *I Liheslaturan Guåhan* finds that some lease extensions will  
8 benefit both the airport and vendors. Any extensions would be subject to review and  
9 consideration by *I Liheslaturan Guåhan*.

10        Though some lease extensions may benefit the community, *I Liheslaturan*  
11 *Guåhan* finds that the concept of a Master Food and Beverage Concessionaire has  
12 outlived its usefulness. The airport authority is capable of overseeing individual  
13 concessionaires and stands to realize additional revenue from food and beverage  
14 concessions if these contracts are opened for public bid.

15  
16        **Section 2.** Section 1203.1 of Article 2, Chapter 1, of Title 12 of the Guam  
17 Code Annotated is hereby repealed.

18  
19        **Section 3.** Section 1203.1 of Article 2, Chapter 1, of Title 12 of the Guam  
20 Code Annotated is hereby re-enacted to read as follows:

1           § 1203.1 Agreements Between GIAA and Concessions, Other  
2 Businesses and Service Providers; Agreements Between GIAA and Airlines

3           (a) Any agreement between GIAA and any other party concerning  
4 the operation of a concession, other business, or a service  
5 provider at the Antonio B. Won Pat Guam International  
6 Airport shall conform to the following:

7           (i) allow for an exclusive right to sell certain goods or  
8 provide certain services only after a competitive  
9 proposal procedure according to the General Services  
10 Administration rules and regulations and for a  
11 duration of no longer than five (5) years. Any  
12 exclusive right for a duration of longer than five (5)  
13 years shall be given by GIAA to any party only upon  
14 subsequent approval by the Legislature by statute.

15           (ii) criteria established for the operation of a concession,  
16 other business, or service provider at the Antonio B.  
17 Won Pat Guam International Airport, which criteria  
18 shall be reviewed at a public hearing held within  
19 ninety (90) days of the effective date of this Section,  
20 and held in accordance with the Administrative  
21 Adjudication Law.

22           (iii) not be extended in duration or otherwise modified  
23 unless the extension or other modification conforms to  
24 the requirements of this Section. Notwithstanding the  
25 forgoing sentence, the exclusive concessionaire

*"forgoing" should  
be spelled:  
"foregoing" ↓*

1 agreement between GIAA and DFS, in effect on the  
2 effective date of this Section, modified by a  
3 memorandum of understanding, shall be modified  
4 again, but not extended in duration of term, pursuant  
5 to the cooperative efforts of the parties to reach a  
6 mutual understanding in the best interests of the  
7 people of Guam.

8 (iv) in order to maximize local participation in the  
9 concession business at the Airport, GIAA shall abide  
10 by the competitive bid process, to the extent consistent  
11 with good business practice, and make available the  
12 maximum number of opportunities for local  
13 businesses to provide the concession goods and  
14 services at the Airport.

15 (b) Any agreement between GIAA and any airline offering service  
16 to Guam shall charge the airline using GIAA air terminal  
17 facilities rates sufficient to cover the operating expenses of the  
18 air terminal and debt service coverage of the bonds authorized  
19 to be issued by this Section, and be in compliance with the  
20 requirement that no one or more airlines shall be unreasonably  
21 discriminated against in comparison with any other airline in  
22 these charges.

23 (c) Notwithstanding any other provision of law, GIAA is  
24 authorized to enter into individual leases or agreements with

1 those tenants currently operating food and beverage  
2 concessions at GIAA as of February 28, 2001, for a period or  
3 term not to exceed five (5) years from January 1, 2002 under  
4 terms and conditions agreed upon between GIAA and the  
5 tenants; provided however this Section does not authorize an  
6 extension or renewal of any existing Master Food and Beverage  
7 Concession Agreement or lease.

8 (d) Notwithstanding subsection (a) of this Section 1203.1, GIAA is  
9 authorized to enter into an agreement to extend the current  
10 exclusive DFS Concession Agreement one time only for a  
11 period or term not to exceed five (5) years from January 20,  
12 2002. Any such agreement shall still be subject to approval by  
13 the Legislature. The extension of the DFS Agreement shall be  
14 submitted to the Legislature for approval no later than  
15 September 30, 2001. The Legislature shall have forty-five (45)  
16 days upon receipt of the proposal to act on the approval or  
17 disapproval of the concessionaire agreement. Inaction by the  
18 Legislature within the designated timeframe shall constitute  
19 approval.  
20

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

MINA BENTE SAIS NA LIHESLATURAN GUAHAN

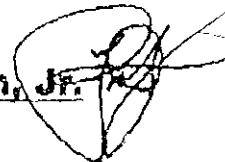
JAN 04 2001

**MINA BENTE SAIS NA LIHESLATURAN GUAHAN  
2001 (FIRST) REGULAR SESSION**

Bill No. 3 (COR)

Introduced By:

F. B. Aguon, Jr.



**AN ACT RELATIVE TO ACKNOWLEDGING GUAM'S CHALLENGING ECONOMIC CONDITION, THUS GRANTING THE ANTONIO B. WONPAT INTERNATIONAL AIRPORT AUTHORITY THE AUTHORIZATION TO EXTEND EXISTING CONCESSIONAIRE AGREEMENTS; IN AN EFFORT TO MAXIMIZE THE USE OF THE FACILITY BY AIRPORT PATRONS, AND TO INSURE A CONTINUAL REVENUE STREAM FOR ITS OPERATIONS AND FOR ADDRESSING BOND OBLIGATION PAYMENTS.**

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

Section 1. Legislative Findings/Intent.

The Liheslaturan Guahan recognizes that the Antonio B. Wonpat International Airport Authority finds itself in a position in which several existing concessionaire agreements will be expiring shortly and await renewal, or a request for other business proposals for the lease of said airport properties must be consummated to insure timely and continual receipt of revenues for the operation of the facility and the repayment of outstanding bond obligations. The Liheslaturan Guahan recognizes that due to present economic conditions, it is imperative that the airport authority be granted flexibility in deciding how it should proceed with these lease arrangements, with the goal of maximizing airport

1 revenues while further enhancing the use of the facility for its patrons and the  
2 people of Guam.

3 The Liheslaturan Guahan finds that there are a number of business vendors  
4 with concessionaire agreements with the Antonio B. Wonpat International Airport  
5 Authority which have expressed interest in extending their existing lease  
6 arrangements, with the desire to continue their business at the airport and to  
7 explore the possibility of expanding existing activities. Such arrangements may be  
8 mutually beneficial to their business enterprise and possibly provide additional  
9 revenues to the airport. With this in mind and considering the island's present  
10 economic condition, it may be prudent to grant the airport board and management  
11 the flexibility to consider granting existing concessionaires lease extensions for  
12 the use of the facility with the provision that such extensions be subject to  
13 additional benefit for the airport and the community.

14 Therefore, this provision would grant the authorization to the Antonio B.  
15 Wonpat International Airport Authority to review its lease options regarding its  
16 business vendors and consider granting extensions on existing concessionaire  
17 agreements. Current law prohibits the extension of concession agreements at the  
18 airport. This provision would modify that restriction and enable the airport to  
19 work with existing vendors to obtain a mutually beneficial arrangement. Any  
20 lease extensions would be subject to review and consideration by the Liheslaturan  
21 Guahan.

22 **Section 2. Business Arrangements Between the Antonio B. Wonpat**  
23 **International Airport Authority and Concessionaires, Businesses, and Service**  
24 **Providers.**

25 § 1203.1 of Article 2, Chapter 1, of Title 12 of the Guam Code Annotated, is  
26 hereby repealed and reenacted to read:

1           “§1203. Agreements between GIAA and concessions, other business,  
2 and service providers; agreements between GIAA and airlines.

3           (a) Any agreements between GIAA and any other party concerning  
4           The operation of a concession, other business, or service provider  
5           at the Antonio B. Won Pat Guam International Airport shall  
6           conform to the Following:

7           (i) allow for an exclusive right to sell certain goods or  
8           provide services only after a competitive proposal  
9           procedure according to the General Services  
10           Administration rules and regulations; and

11           (ii) Any change of any of the criteria established for the  
12           Operation of a concession, other business, or service  
13           provider at the Antonio B. Won Pat Guam International  
14           Airport shall be reviewed at a public hearing held prior  
15           to adoption of the change in criteria in accordance with  
16           the Administrative Adjudication Law.

17           (b) Notwithstanding Subsection (a) of this Section, the Board of  
18           Directors of the GIAA shall promptly proceed to determine  
19           whether it is in the best interest of the GIAA to extend or modify  
20           existing concessionaire agreements at the Antonio B. Won Pat  
21           Guam International Airport. If the Board of Directors of the  
22           GIAA determines that extension or modifications are in the best  
23           interests of the GIAA, the GIAA may extend or modify the terms  
24           without the need to comply with the provisions of Subsection (a)  
25           of this Section, for one time only, the agreements for up to five



1 (5) years or to the expired year of any investments currently  
 2 amortized from the respective dates of expiration.

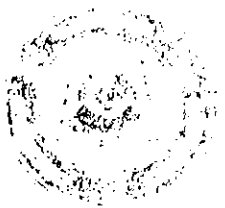
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 4 concessionaire agreements" shall be deemed to include sub-  
 5 concession agreements between existing GIAA concessionaires  
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 7 interest of GIAA to do so, GIAA is hereby authorized to enter  
 8 into direct agreements with existing sub-concessionaires to  
 9 extend or modify their concession agreements without extending  
 10 the existing prime or master concession. The extension of  
 11 existing concessionaire agreements may also include additional  
 12 terms and conditions as the Board of Directors of GIAA deems  
 13 appropriate.

14 This sub-section (b) will terminate on January 01, 2002.

15 Any concessionaire agreement that is negotiated within the  
 16 terms outlined in this subsection which exceed a term of five (5)  
 17 years shall be subject to review and approval by the Liheslaturan  
 18 Guahan. The Liheslaturan Guahan shall have forty-five (45) days  
 19 upon receipt of the proposal to act on the approval or disapproval  
 20 of the concessionaire agreement. Inaction by the Liheslaturan  
 21 Guahan within the designated timeframe shall constitute  
 22 approval.

23 (c) Any agreement between the GIAA and any airline offering  
 24 service to Guam shall charge the airline using the GIAA air  
 25 terminal facility rates sufficient to cover the operating expense of  
 26 the air terminal and debt service coverage of the bonds authorized

1 to be issued by Article 2 of this Chapter and be in compliance with  
2 the requirement that no airline shall be unreasonably discriminated  
3 against in comparison with any other airline in these charges.”



APR 01 2001

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