

EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

DEC 31 2014

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

33-15-0023

Office of the Speaker
Judith T. Won Pat, Ed.D.

Date: 1/6/15
Time: 4:04 PM
Received By: CARL SANCHEZ, MPA

Dear Madame Speaker:

Transmitted herewith is Bill No. 416-32 (LS) "AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF ONE THOUSAND SIX HUNDRED (1,600) NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND TO ADD A NEW § 58146.1 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA" which I signed into law on December 31, 2014, as Public Law 32-233.





Senseramente,


EDDIE BAZA CALVO

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I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

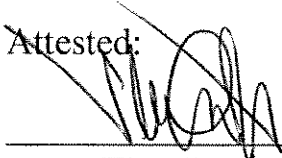
CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 416-32 (LS), "AN ACT TO *ADD* A NEW ARTICLE 2 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF ONE THOUSAND SIX HUNDRED (1,600) NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND TO *ADD* A NEW § 58146.1 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA," was on the 19th day of December, 2014, duly and regularly passed.



Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 21 day of Dec.
2014, at

6:35 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: DEC 31 2014

Public Law No. 32-233

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 416-32 (LS)

As substituted by the Committee on Health and Human Services, Health Insurance Reform, Economic Development, and Senior Citizens.

Introduced by:

Dennis G. Rodriguez, Jr.
T. C. Ada
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
T. R. Muña Barnes
R. J. Respicio
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF ONE THOUSAND SIX HUNDRED (1,600) NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND TO ADD A NEW § 58146.1 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the projected and desired growth of Guam's hotel industry requires the

1 development of an additional one thousand six hundred (1,600) new hotel rooms.
2 It is the intent of *I Liheslaturan Guåhan* that a “Special Qualifying Certificate”
3 specifically for the development of one thousand six hundred (1,600) new hotel
4 rooms be enacted; and authorizing the Guam Economic Development Authority to
5 issue the certificates for this sole specific purpose.

6 It is, further, the intent of *I Liheslaturan Guåhan* that a General Industry
7 Specific Qualifying Certificate Abeyance be enacted, and that no new Qualifying
8 Certificates, or the renewal of Qualifying Certificates, shall be approved and issued
9 until such time as the Guam Economic Development Authority has developed
10 industry specific policy, regulations, criteria and measurable goals ensuring the
11 appropriate stimulation of legitimate investment of new economic development,
12 and which *shall not* include industry specific development projects already
13 satisfactorily established on Guam, so as to ensure that the government not
14 unnecessarily waive needed revenue for an industry specific project category that
15 already exists or is satisfactorily established.

16 **Section 2.** A new Article 2 is hereby *added* to Chapter 58 of Title 12,
17 Guam Code Annotated, to read:

18 **“ARTICLE 2**
19 **SPECIAL QUALIFYING CERTIFICATE; 1,600 HOTEL**
20 **ROOMS DEVELOPMENT**

- 21 § 58201. Legislative Intent.
- 22 § 58202. Definitions.
- 23 § 58203. Special Hotel Qualifying Certificate Defined.
- 24 § 58204. Fees.
- 25 § 58205. Community Contributions.
- 26 § 58206. “Sunset” Provision..
- 27 § 58207. Severability.

1 **§ 58201. Legislative Intent.** *I Liheslaturan Guåhan* recognizes
2 that the Qualifying Certificate program of the Guam Economic Development
3 Authority (Authority) was conceived as an economic incentive tool to entice
4 investors into Guam. In use for over four (4) decades, it has had a substantial
5 positive impact upon the economic development of Guam, mainly in the
6 tourist industry.

7 It is the goal of the Guam Visitors Bureau, under their Vision 2020, to
8 build one thousand six hundred (1,600) new hotel rooms by 2020. Several
9 companies have expressed interest in building hotel rooms on Guam;
10 however, Guam must offer incentives to compete with other tourism markets.

11 Prospective developers have also expressed a reluctance to commit, as
12 it is yet unknown where Guam stands with the China Visa Waiver program.
13 This has caused a delay in the development of our number one industry, and
14 the Qualifying Certificate could provide additional incentive to develop the
15 1,600 rooms in time to meet the 2020 deadline.

16 As such, *I Liheslatura* recognizes the aggressive goal of 1,600 hotel
17 rooms by the year 2020, and the Guam Qualifying Certificate Program *shall*
18 be updated to provide special incentives for hotel developers.

19 **§ 58202. Definitions.** For purposes of this Article 2, the following
20 definitions will apply:

21 (a) Authority: The Guam Economic Development Authority
22 (GEDA)

23 (b) Hotel: For purposes of this Article and unless the context
24 otherwise requires, *hotel* means a building facility that contains guest rooms
25 held out to the public as a place where all transient persons, including, but
26 not limited to tourists, who come will be accommodated and entertained as
27 guests for compensation based on daily or weekly rates.

1 (c) Construction Cost: Expenses incurred by a developer for the
2 construction of any new hotel or for the expansion of any existing hotel in
3 Guam. Such costs include land acquisition, building and site improvements,
4 A&E and FF&E.

5 (d) Hotel Expansion: Existing Guam hotels may be eligible for this
6 special hotel QC if new capital investment is to be made that will add to the
7 hotel's room inventory.

8 (e) Renovation Cost: Expenses incurred from modernizing the
9 elements within a structural part of real property, whose total costs are no
10 less than twenty percent (20%) of the property value, and that either:

- 11 (1) materially increases the value of the property;
- 12 (2) substantially prolongs the useful life of the property; or
- 13 (3) adapts the property to a new or better use.

14 (f) Property Value: means the current appraised value of the land
15 and improvements. The cost of such appraisal shall be borne by the hotel
16 developer.

17 (g) Business Privilege Tax (BPT): The tax that is levied on
18 business revenues as imposed by § 26201 of Article 2, Chapter 26, Title 11,
19 GCA.

20 (h) Use Tax: The tax that is levied on the landed value of or
21 consumption of all property as defined by Chapter 28 of Title 11 GCA.

22 **§ 58203. Special Hotel Qualifying Certificate Defined.** The
23 Special Hotel Qualifying Certificate (QC) is a contract valid for a given
24 period, executed by *I Maga'lahañ Guåhan* (the Governor of Guam) upon the
25 recommendation of the Authority. The QC, once issued and unless
26 suspended, rescinded or revoked, *shall* constitute conclusive evidence of
27 entitlement to the tax rebates, abatements, or exemptions set forth on its face.

1 (a) Hotel Construction and Expansion Tax Rebate and
2 Abatement. There *shall* be allowed to each developer a tax rebate,
3 exemption and abatement in an amount equal to ten percent (10%) of
4 their total construction cost, which can be applied by the developer at
5 their discretion to the following taxes:

6 (1) Fifty percent (50%) Business Privilege Tax (BPT)
7 for twenty (20) years as long as the tax credits are available at
8 the point they are taken.

9 This BPT exemption *shall not* apply to the levy of three
10 percentage points (3%), out of the total percentage points levied
11 from time to time, of the BPT, the revenues from which are
12 pledged to the government of Guam Business Privilege Tax
13 Bonds;

14 (2) Seventy-five percent (75%) Income Tax Rebate for
15 twenty (20) years;

16 (3) One hundred percent (100%) Real Property Tax
17 Abatement for ten (10) years; provided, the fee simple owner
18 tax payer is the Qualifying Certificate beneficiary and that the
19 real property on which the tax is assessed is only utilized by the
20 beneficiary for activities identified in their qualifying
21 certificate;

22 (4) One hundred percent (100%) of Use Tax
23 Exemption with respect to the property used to construct,
24 furnish and equip the new facility construction or substantial
25 expansion of an existing building. The exemption must be
26 claimed *no later than* one (1) year of issuance of the facility's
27 occupancy permit.

1 (b) Application Period. Eligible developers for this special
2 QC *shall* file their application prior to issuance of the hotel project
3 building permit.

4 (c) Benefit Negotiations. The Authority has the *sole*
5 authority to negotiate the terms of the QC. Negotiations *shall* be
6 completed prior to issuance of the hotel project's building permit.

7 **§ 58204. Fees.**

	Application & Modification Filing Fee	Annual Compliance Monitoring Fee
Hotels:	\$5,000.00	
Under Construction:		\$3,000.00
In Operation:		\$50/per room

8 As to the annual compliance monitoring fees, the fee *shall* be assessed
9 annually until such time as the QC beneficiary has exhausted the total dollar
10 amount of its QC benefit.

11 **§ 58205. Community Contributions.** As a condition of this
12 Special Hotel QC, the QC beneficiary *shall* make a community contribution
13 to the Authority in an amount equal to 0.5% of the total hotel construction
14 cost. The terms of the community contributions *shall* be subject to
15 negotiations between the Authority and the developer. Distribution of funds
16 to be approved by the GEDA Board, based on the recommendation of the
17 Administrator, will be to the following areas:

18 (a) funding for the maintenance and upkeep of certain tourist
19 attractions or to support other tourism projects;

20 (b) economic development with a priority on the promotion
21 of industry and small business; and

1 (c) higher education and cultural preservation.

2 § 58206. “Sunset” Provision. This Article *shall* take effect on its
3 approval by *I Maga’lahen Guåhan* and *shall* remain in effect until the earlier
4 of:

5 (a) five (5) years;

6 (b) 1,600 hotel rooms have been committed to be built; or

7 (c) a China Visa Waiver or China Visa Parole declaration
8 has been approved for Guam; upon which period this Article *shall*
9 automatically be deemed repealed; provided, however, that the GEDA
10 Board, at its discretion, with input from *I Liheslatura* (the Legislature),
11 the visitor industry, the Administration, and the *community as a whole*,
12 will re-examine the effectiveness and need of the program to
13 determine if it should be extended, and may extend the effectiveness
14 of this Article an additional two (2) years by adopting a resolution to
15 such effect prior to the expiration date. Any QC issued under the
16 conditions of this Article *shall* remain in full force and effect until its
17 particular term expires or it is canceled on other grounds.

18 § 58207. Severability. If any provision of this Law or its
19 application to any person or circumstance is found to be invalid or contrary
20 to Law, such invalidity shall not affect or provisions or applications of this
21 Law which can be given effect without the invalid provisions or application
22 and to this end the provisions of this Law are severable.”

23 Section 3. A new § 58146.1 is hereby *added* to Chapter 58, Title 12,
24 Guam Code Annotated, to read:

25 “§ 58146.1. Qualifying Certificate; Abeyance Thereof.
26 Development of Industry Specific Policy, Regulations, Criteria and
27 Measurable Goals.

1 (a) *No later than sixty (60) days from the date of enactment*
2 *of this Act, the Guam Economic Development Authority shall submit*
3 *to I Liheslaturan Guåhan for approval, as provided pursuant to Article*
4 *3 of Chapter 9, Title 5 GCA, proposed and duly promulgated industry*
5 *specific policy, regulations, criteria and measurable goals ensuring the*
6 *appropriate stimulation of legitimate investment of new economic*
7 *development, and which shall not include industry specific*
8 *development projects already satisfactorily established on Guam, so*
9 *as to ensure that the government not unnecessarily waive needed*
10 *revenue for an industry specific project category that already exists or*
11 *is satisfactorily established. In the event the mandated industry*
12 *specific policy, regulations, criteria and measurable goals are not*
13 *submitted timely, pursuant to this Subsection (a), then the following*
14 *shall become effective ninety (90) days from the date of enactment of*
15 *this Act:*

16 (1) Hotel Qualifying Certificate; Provisional
17 Abeyance thereof. Except as provided pursuant to Article 2 of
18 Chapter 58, 12 GCA, no renewal of Qualifying Certificates for
19 hotels shall be approved and issued until such time as the Guam
20 Economic Development Authority has developed, pursuant to
21 Article 3 of Chapter 9, 5 GCA, industry specific policy,
22 regulations, criteria and measurable goals ensuring appropriate
23 stimulation of legitimate investment of new economic
24 development; and

25 (2) General Industry Specific; Provisional Abeyance
26 thereof. No new Qualifying Certificates, or the renewal of
27 Qualifying Certificates, shall be approved and issued until such

1 time as the Guam Economic Development Authority has
2 developed, pursuant to Article 3 of Chapter 9, 5 GCA, industry
3 specific policy, regulations, criteria and measurable goals
4 ensuring the appropriate stimulation of legitimate investment of
5 new economic development, and which *shall not* include
6 industry specific development projects already satisfactorily
7 established on Guam, so as to ensure that the government not
8 unnecessarily waive needed revenue for an industry specific
9 project category that already exists or is satisfactorily
10 established.”

11 **Section 4. Severability.** If any provision of this Act or its application to
12 any person or circumstance is found to be invalid or contrary to law, such
13 invalidity shall not affect other provisions or applications of this Act which can be
14 given effect without the invalid provisions or application, and to this end the
15 provisions of this Act are severable.

16 **Section 5.** This Act *shall* become effective upon enactment.