



EDDIE BAZA CALVO
Governor

RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

NOV 13 2015

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

Dear Madame Speaker:

Transmitted herewith is Bill No. 169-33 (COR), "AN ACT TO AMEND SUBSECTIONS (e), (i) AND (k) OF SECTION 18 OF PUBLIC LAW 31-229, AS REPEALED AND REENACTED BY SECTION 2 OF PUBLIC LAW 31-277; AND TO AMEND THE FIRST PARAGRAPH OF SUBSECTION (q) AND ITEM (q)(1) OF § 22425 OF ARTICLE 4, CHAPTER 22 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO APPROVING INTERIM FINANCING AND LEASE-LEASEBACK AGREEMENTS BETWEEN THE UNIVERSITY OF GUAM AND THE UNIVERSITY OF GUAM ENDOWMENT FOUNDATION FOR THE CONSTRUCTION OF THE STUDENT SERVICES CENTER AND THE ENGINEERING ANNEX FACILITY AT THE UNIVERSITY OF GUAM," which was signed into law on the 9th day of November 2015, as Public Law 33-92.

2015 NOV 13 PM 4:53

Senseramente,

EDDIE BAZA CALVO

33-15-1090
Office of the Speaker
Judith T. Won Pat, Ed.D

Date: 11/13/15
Time: 4:00 pm
Received By:

1090

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

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

This is to certify that **Bill No. 169-33 (COR)**, "AN ACT TO *AMEND* SUBSECTIONS (e), (i) AND (k) OF SECTION 18 OF PUBLIC LAW 31-229, *AS REPEALED AND REENACTED* BY SECTION 2 OF PUBLIC LAW 31-277; AND TO *AMEND* THE FIRST PARAGRAPH OF SUBSECTION (q) AND ITEM (q)(1) OF § 22425 OF ARTICLE 4, CHAPTER 22 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO APPROVING INTERIM FINANCING AND LEASE-LEASEBACK AGREEMENTS BETWEEN THE UNIVERSITY OF GUAM AND THE UNIVERSITY OF GUAM ENDOWMENT FOUNDATION FOR THE CONSTRUCTION OF THE STUDENT SERVICES CENTER AND THE ENGINEERING ANNEX FACILITY AT THE UNIVERSITY OF GUAM," was on the 27th day of October 2015, duly and regularly passed.

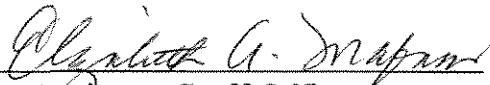


Judith T. Won Pat, Ed.D.
Speaker

Attested:


Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'låhen Guåhan* this 28th day of October, 2015, at 4:22 o'clock P.M.


Elizabeth A. Inafan
Assistant Staff Officer
Maga'låhi's Office

APPROVED:


RAYMOND S. TENORIO
Acting Governor of Guam

Date: NOV 09 2015

Public Law No. 33-92

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

Bill No. 169-33 (COR)

As amended on the Floor.

Introduced by:

Judith T. Won Pat, Ed.D.
N. B. Underwood, Ph.D.
Michael F.Q. San Nicolas
Frank F. Blas, Jr.

T. C. Ada

V. Anthony Ada

FRANK B. AGUON, JR.

B. J.F. Cruz

James V. Espaldon

Brant T. McCreadie

Tommy Morrison

T. R. Muña Barnes

R. J. Respicio

Dennis G. Rodriguez, Jr.

Mary Camacho Torres

AN ACT TO *AMEND* SUBSECTIONS (e), (i) AND (k) OF SECTION 18 OF PUBLIC LAW 31-229, AS *REPEALED* AND *REENACTED* BY SECTION 2 OF PUBLIC LAW 31-277; AND TO *AMEND* THE FIRST PARAGRAPH OF SUBSECTION (q) AND ITEM (q)(1) OF § 22425 OF ARTICLE 4, CHAPTER 22 OF TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO APPROVING INTERIM FINANCING AND LEASE-LEASEBACK AGREEMENTS BETWEEN THE UNIVERSITY OF GUAM AND THE UNIVERSITY OF GUAM ENDOWMENT FOUNDATION FOR THE CONSTRUCTION OF THE STUDENT SERVICES CENTER AND THE ENGINEERING ANNEX FACILITY AT THE UNIVERSITY OF GUAM.

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

2 **Section 1. Legislative Findings and Intent.** Subsequent to the
3 enactment of Public Laws 31-277, 32-063 and 32-120, the United States
4 Department of Agriculture (USDA) has informed the University of Guam
5 (University) that the University will need to secure financing (interim financing)
6 for the construction of the University’s Student Services Center and the
7 Engineering Annex facility projects (projects), and that the USDA financing will
8 only be available to refinance the interim financing once the projects have been
9 constructed. *I Liheslaturan Guåhan* wishes to authorize the interim financing and
10 certain moneys to be used to make payments on the interim financing.

11 **Section 2.** Section 18(e) of Public Law 31-229, as *repealed* and *reenacted*
12 by Section 2 of Public Law 31-277, is *amended* to read as follows:

13 “(e) The lease-back agreement *shall* require that the University be
14 responsible for the procurement and oversight of the design and construction
15 associated with the project or projects authorized to be financed pursuant to
16 this Section. The lease and lease-back agreements *shall* be valid and binding
17 obligations of the University and the Foundation enforceable in accordance
18 with their respective terms, and there shall be no power to terminate or
19 declare null and void any such agreement for procurement violations or any
20 other reason or reasons. The University is authorized to grant right of way
21 access to the construction site and building, and access to utility easements.
22 The right of way and easement access *shall* remain in effect during the entire
23 term of the lease and lease-back agreements.”

24 **Section 3.** Section 18(i) of Public Law 31-229, as *repealed* and *reenacted*
25 by Section 2 of Public Law 31-277, is hereby *amended* to read as follows:

26 “(i) To minimize the financing costs to the University, the
27 Foundation has applied to the USDA for a loan secured by the base rental

1 payments to be made by the University pursuant to a lease-leaseback
2 agreement. The USDA has required that as a condition for making the loan,
3 the Foundation obtain interim financing for the construction of expansion
4 and renovation of the University of Guam Student Services Center and the
5 construction of an Engineering Annex facility onto the existing Agriculture
6 and Life Sciences Building. In the event the Foundation is unable to secure
7 funding through a USDA loan prior to January 31, 2016, the University and
8 the Guam Economic Development Authority are hereby authorized to enter
9 into the lease-leaseback agreement described above, subject to the same
10 terms, conditions and provisions set forth in this Section (substituting the
11 Authority for the Foundation). *I Liheslaturan Guåhan*, pursuant to §
12 50103(k), Title 12, Guam Code Annotated, hereby approves either the
13 USDA loan or loans, including the interim financing, and/or the issuance
14 and sale by the Guam Economic Development Authority of Project Revenue
15 Bonds pursuant to Chapter 64 of Title 12 of the Guam Code Annotated for
16 the purposes set forth in Subsection (b) of this Section, such loans and
17 interim financing or such Project Revenue Bonds to be secured by the base
18 rental payments to be made by the University pursuant to the lease-leaseback
19 agreement; provided, however, that the terms and conditions of such loan or
20 bonds, and the related lease-leaseback agreements, *shall* be consistent with
21 this Section, that any interim financing *shall* be consistent with this Section,
22 and any such interim financing *shall* bear interest at a rate that *does not*
23 *exceed* the annual appropriation authorized by Subsection (q)(1) of § 22425
24 of Article 4, Chapter 22 of Title 5, Guam Code Annotated, in the amount of
25 One Million One Hundred Fifty-Eight Thousand Two Hundred Eighty-
26 Three Dollars (\$1,158,283) and have a term that *does not exceed* four (4)
27 years, and any such USDA loan *shall* bear interest at a rate that *does not*

1 *exceed* three and one half percent (3.5%) per annum and with a term that
2 *does not exceed* thirty-six (36) years, and that any such bonds *shall* mature
3 *not later than* thirty-six (36) years after their date of issuance and *shall* bear
4 interest at such rates and be sold for such price or prices as *shall* result in a
5 yield to the bondholders that *does not exceed* the annual appropriation
6 authorized by Subsection (q)(1) of § 22425 of Article 4, Chapter 22 of Title
7 5, Guam Code Annotated, in the amount of One Million One Hundred Fifty-
8 Eight Thousand Two Hundred Eighty-Three Dollars (\$1,158,283) per
9 annum; and provided further, that the interim financing is only authorized
10 and approved if, prior to or concurrently with the execution and delivery of
11 the interim financing documents, the USDA irrevocably commits to
12 refinancing the interim financing when such interim financing comes due.”

13 **Section 4.** Section 18(k) of Public Law 31-229, as *repealed* and *reenacted*
14 by Section 2 of Public Law 31-277, is hereby *amended* to read as follows:

15 “(k) The obligation of the University to make lease payments may
16 be secured by a pledge or reservation of liquid fuel tax revenues, funds from
17 the Guam Highway Fund, funds from the Territorial Educational Facilities
18 Fund, or other available revenues. Any pledge or reservation pursuant to
19 this Section *shall* be made on lease financing terms that do not cause the
20 lease obligation of the College to be public indebtedness within the meaning
21 of Section 11 of the Guam Organic Act or to violate or breach any existing
22 bond covenant. The tax revenues pledged or reserved and thereafter
23 received by the government, the University or by any trustee, depository or
24 custodian *shall* be deposited in a separate account and *shall* be immediately
25 subject to such reservation or the lien of such pledge without any physical
26 delivery thereof or further act, and such reservation or the lien of such
27 pledge *shall* be valid and binding against all parties having claims of any

1 kind in tort, contract or otherwise against the government of Guam, the
2 University or such trustee, depository or custodian, irrespective of whether
3 the parties have notice thereof. The instrument by which such pledge or
4 reservation is created need not be recorded. Any amounts pledged as
5 provided in this Section are hereby continuously appropriated for the
6 purpose of making lease payments, but any amounts only reserved as
7 provided in this Section and not pledged, *shall* be subject to annual
8 appropriation for the purpose of making lease payments, but any amounts
9 only reserved as provided in this Section and not pledged, shall be subject to
10 annual appropriation for the purpose of making lease payments. In the event
11 amounts are pledged as provided in this Section, any surplus tax revenues
12 *shall* be released to the government on a monthly basis.”

13 **Section 5.** The first paragraph of Subsection (q) and item (q)(1) of § 22425
14 of Article 4, Chapter 22 of Title 5, Guam Code Annotated, are hereby *amended* to
15 read as follows:

16 “(q) Notwithstanding any other provision of law, any additional real
17 property tax revenues received as a result of the most recent valuation of real
18 property due to commence during the calendar years 2013 and 2014 is
19 hereby continuously reserved, subject to annual appropriation, in an amount
20 not to exceed Eight Million Five Hundred Thousand Dollars (\$8,500,000),
21 from the Territorial Educational Facilities Fund in the amounts and for the
22 purposes set forth in this Subsection:

23 (1) The sum of One Million One Hundred Fifty-Eight Thousand
24 Two Hundred Eighty-Three Dollars (\$1,158,283), beginning in FY 2015, for
25 the construction of the Student Services Center and the Engineering Annex
26 facility at the University of Guam, as a source of payment to the University
27 of Guam Capital Improvements Fund for the purpose of paying rental

1 payments due under the lease-leaseback agreements with the University of
2 Guam Endowment Foundation for a term of forty (40) years; including any
3 lease-leaseback agreements entered into in connection with the interim
4 financing;”

5 **Section 6. 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
7 invalidity shall not affect other provisions or applications of this law which can be
8 given effect without the invalid provisions or application, and to this end the
9 provisions of this law are severable.