


I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
141-34 (COR)	Committee on Rules By request of I Mags'láhen Guåhan, the Governor of Guam, in accordance with the Organic Act of Guam.	AN ACT TO AMEND SUBSECTIONS (a) AND (j) OF §1512.3 OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING ADDITIONAL SERIES OF BUSINESS PRIVILEGE TAX BONDS TO FINANCE THE RENOVATION AND/OR NEW CONSTRUCTION OF CERTAIN GUAM MEMORIAL HOSPITAL FACILITIES, AND RELATED MATTERS.	7/10/17 10:56 p.m.						

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session

Bill No. 141 -34 (COR)

Introduced by:

Committee on Rules 

By request of *I Maga'låhen Guåhan*, the Governor of Guam, in accordance with the Organic Act of Guam.

AN ACT TO *AMEND* SUBSECTIONS (a) AND (j) OF §1512.3 OF ARTICLE 5, CHAPTER 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING ADDITIONAL SERIES OF BUSINESS PRIVILEGE TAX BONDS TO FINANCE THE RENOVATION AND/OR NEW CONSTRUCTION OF CERTAIN GUAM MEMORIAL HOSPITAL FACILITIES, AND RELATED MATTERS

2017 JUL 10 AM 10:56 

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent: *I Liheslaturan Guåhan* finds that:

(a) There have been heightened concerns over the condition of existing facilities of the Guam Memorial Hospital (“GMH”) as well as the potential funding sources for the renovation or construction of new facilities for GMH. The aged facilities at GMH have posed a challenge in addressing the demands of the community. While technology and methods of diagnosis and treatment continue to change, so, too, does the standard of care.

1 (b) Despite being the sole public hospital serving a population that has
2 increased from approximately 133,000 in 1991 to over 170,000 today, over this
3 26-year period only \$46.6 million of capital improvements has been made to GMH.

4 (c) Major capital improvements are necessary in order for the Guam
5 Memorial Hospital Authority (“GMHA”) to establish, upgrade and enhance its
6 standard of care and to meet its public mandate of providing quality medical care to
7 the people of Guam.

8 (d) Such improvements will be instrumental in achieving GMH’s strategic
9 focus to shift away from an acute stay model toward an outpatient model that will
10 provide expanded services, better healthcare and, most importantly, better outcomes
11 for the people of Guam.

12 (e) Such improvements also would greatly enhance operational efficiency
13 and revenue collection, enabling further enhancement to the quality of care
14 delivered by GMH.

15 (f) The capital improvements require immediate funding that cannot be
16 paid from current revenues, and furthermore, as long-lived assets that will benefit
17 future generations, it is appropriate to pay for these improvements over time.

18 As a result, it is the intent of *I Liheslaturan Guåhan* to authorize one or more
19 series of Government of Guam Business Privilege Tax Bonds to finance such
20 facilities, including but not limited to, Z wing demolition and replacement, certain
21 IT improvements, as well as related fixtures, furnishings and equipment for the
22 Guam Memorial Hospital.

23 **Section 2. Authorization of Additional Business Privilege Tax Bonds**
24 **for Guam Memorial Hospital Capital Improvements.**

25 § 1512.3(a) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby
26 *amended* to read as follows:

1 “(a) **Authorization of Issuance of Bonds.** *I Maga’låhen Guåhan* is
2 authorized to issue ~~four (4)~~ five (5) series of bonds of the government of
3 Guam, as provided in this Section, in an aggregate principal amount *not to*
4 *exceed* ~~Three Hundred Forty Three Million Seven Hundred Thousand Dollars~~
5 ~~(\$343,700,000)~~ Four Hundred Sixty-Eight Million Seven Hundred Thousand
6 Dollars (\$468,700,000) plus such principal amount as may be necessary for
7 the purposes of the refunding of Government of Guam General Obligation
8 Bonds, 1993 Series A, as provided in and subject to the conditions of
9 paragraph (3) of this subsection (a), and plus such principal amount as may be
10 necessary for the purposes of the refunding of Government of Guam General
11 Obligation Bonds, 2007 Series A and Government of Guam General
12 Obligation Bonds, 2009 Series A, as provided in and subject to the conditions
13 of paragraph (4) of this subsection (a), to provide the following:

14 (1) For the first bond series, in the following order of priority:

15 (A) up to One Hundred Ninety-Eight Million Dollars
16 (\$198,000,000) for payment of unpaid income tax refunds plus
17 interest to include for 2010 and prior;

18 (i) Set-aside for Tax Refunds for Humanitarian
19 Purposes. Of the total amount of proceeds available to
20 issue tax refund payments, the sum of Twenty Million
21 Dollars (\$20,000,000) *shall* be set aside and appropriated
22 to the Department of Revenue and Taxation for the
23 purpose of paying tax refunds for humanitarian purposes.
24 The provisions of this Section *shall* supplement other
25 guiding provisions of law regarding the processing of
26 emergency tax refund payments. Requests submitted for
27 the following humanitarian purposes *shall* qualify to be

1 processed from this Twenty Million Dollars
2 (\$20,000,000) set-aside:

3 (aa) off-island medical treatment, inclusive of the
4 need to purchase medication; or death of a family
5 member, within two (2) degrees of consanguinity;

6 (bb) delinquent billing payments owed to the
7 Guam Power Authority, the Guam Waterworks
8 Authority, the Guam Housing and Urban Renewal
9 Authority, and the Judiciary of Guam, which have
10 become delinquent due to financial hardships;

11 (cc) delinquent loan payments owed to the Guam
12 Housing and Urban Renewal Authority, which have
13 become delinquent due to financial hardships; and

14 (dd) delinquent loan payments owed to legally
15 qualified and licensed lenders, which have become
16 delinquent due to financial hardships. For the purposes
17 of this Section, a request for tax refunds *shall* be
18 submitted by the taxpayer to the Director of Revenue
19 and Taxation. All such requests are subject to the
20 review and approval of the Director.

21 (ii) Twenty Million Dollars (\$20,000,000) for the
22 payment of cost of living allowance to certain retired
23 government of Guam employees pursuant to the case
24 known as *Rios v. Camacho*;

25 (iii) Twenty-Six Million Four Hundred Thousand
26 Dollars (\$26,400,000) for payments owed to the
27 Government of Guam Retirement Fund for the Guam

1 Department of Education and the Guam Memorial
2 Hospital Authority principal and interest pursuant to
3 Public Law 28-38, as amended by Public Law 31-74; and

4 (iv) if no alternate source of funding is available,
5 for the payment of health insurance premiums for Fiscal
6 Year 2012.

7 (2) For the second bond series:

8 (A) no less than Twenty-Five Million One Hundred
9 Thousand Dollars (\$25,100,000) for payments owed to the
10 Government of Guam Retirement Fund for the Guam
11 Department of Education, the Guam Memorial Hospital
12 Authority, and the *Health Insurance Bailout Agreement of*
13 *FY2011* principal and interest pursuant to Public Law 28-38, as
14 amended by Public Law 31-74, such that the sums owed to the
15 GGRF by the government of Guam pursuant to Public Law
16 2838, as amended, *shall* be extinguished in its entirety;

17 (B) the remaining balance of bond proceeds such that
18 the debt to the GGRF identified in §1512.3(a)(2)(A) of Article 5,
19 Chapter 1, Title 5, Guam Code Annotated is paid, *shall* be used,
20 in any amount, for any of the following:

21 (i) the design, construction, re-construction,
22 rehabilitation, maintenance, renovation of government of
23 Guam or Guam Department of Education-owned school
24 facilities, and/or procurement and preventive maintenance
25 of school buses. A “School Facility” *shall* mean school
26 campus facilities including any structure or structures,
27 together with all ancillary facilities, including parking

1 facilities, utilities, infrastructure and equipment associated
2 with providing the educational or related services required
3 by the Guam Department of Education and may include an
4 existing school facility being rehabilitated; and/or

5 (ii) the payment of unpaid income tax refunds for tax
6 year 2011; and/or

7 (iii) if no alternate source of funding is available, the
8 payment of health insurance premiums for Fiscal Year
9 2012;

10 (3) For the third bond series, to fund an escrow to pay principal,
11 interest and redemption price of Government of Guam General
12 Obligation Bonds, 1993 Series A and to pay expenses relating to the
13 authorization, sale and issuance of the bonds, including, without
14 limitation, printing costs, costs of reproducing documents, credit
15 enhancement fees, underwriting, legal, feasibility, financial advisory
16 and accounting fees and charges, fees paid to banks *or* other financial
17 institutions providing credit enhancement, costs of credit ratings and
18 other costs, charges and fees in connection with the issuance, sale and
19 delivery of the bonds; *provided, however*, that bonds may not be issued
20 for this purpose unless (a) all obligation of the government to pay debt
21 service on, and the redemption price of, the bonds being refunded shall
22 be discharged concurrently with the issuance of the refunding bonds,
23 (b) thereafter, the refunded bonds shall be payable solely from and
24 secured solely by the escrow established for such purpose, (c) the
25 present value of debt service on the refunding bonds shall be at least
26 two percent (2%) less than the present value of debt service on the
27 bonds being refunded, inclusive of all fees, for bond counsel and bond

1 underwriters and other costs of issuance, and (d) the issuance of the
2 refunding bonds shall not result in any increase in the aggregate amount
3 of the governments outstanding “public indebtedness” as that term is
4 used in 48 USC 1423a (§11 of the Organic Act of Guam).

5 (4) For the fourth bond series, to fund an escrow or otherwise
6 to pay principal, interest and redemption price of all or a portion of the
7 Government of Guam General Obligation Bonds, 2007 Series A and
8 the Government of Guam General Obligation Bonds, 2009 Series A, to
9 capitalize interest on the refunding Business Privilege Tax Bonds in an
10 amount to ensure the General Fund is made whole in the current or
11 following fiscal year due to timing of debt service requirements but in
12 an amount not to exceed 1% of refunding proceeds, and to pay
13 expenses relating to the authorization, sale and issuance of the bonds,
14 including without limitation, printing costs, costs of reproducing
15 documents, credit enhancement fees, underwriting, legal, feasibility,
16 financial advisory and accounting fees and charges, fees paid to banks
17 or other financial institutions providing credit enhancement, costs of
18 credit ratings and other costs, charges and fees in connection with the
19 issuance, sale and delivery of the bonds; *provided, however*, that bonds
20 may not be issued for this purpose unless (a) all obligation of the
21 government to pay debt service on, and the redemption price of, the
22 bonds being refunded shall be discharged concurrently with the
23 issuance of the refunding bonds, (b) thereafter, the refunded bonds shall
24 be payable solely from and secured solely by the escrow established for
25 such purpose, and (c) the present value of debt service on the refunding
26 bonds shall be at least two percent (2%) less than the present value of

1 debt service on the bonds being refunded, inclusive of all fees, for bond
2 counsel and bond underwriters and other costs of issuance.

3 (5) For the fifth bond series, the aggregate principal of bonds
4 not to exceed one hundred twenty-five million dollars (\$125,000,000)
5 for one or more of the following purposes: (i) to finance Z wing
6 demolition and replacement, certain IT system improvements, and any
7 related fixture, furnishing and equipment costs, as well as such other
8 capital improvements approved by the Board of Trustees (the "Board")
9 of the Guam Memorial Hospital Authority ("GMHA"), (ii) to finance
10 capitalized interest with respect to the bonds, and (iii) to pay expenses
11 relating to the authorization, sale and issuance of the bonds, including
12 without limitation, printing costs, costs of reproducing documents,
13 credit enhancement fees, underwriting, legal, feasibility, financial
14 advisory and accounting fees and charges, fees paid to banks or other
15 financial institutions providing credit enhancement, costs of credit
16 ratings and other costs, charges and fees in connection with the
17 issuance, sale and delivery of the bonds.

18 ~~(5)~~ (6) For the first and second bond series, such amount as
19 may be needed to capitalize and pay from bond proceeds interest on the
20 bonds due, accruing or required to be set aside in Fiscal Years 2012 and
21 2013; and

22 ~~(6)~~ (7) expenses incurred in connection with the issuance
23 of such bonds not already included in an existing appropriation for or
24 the regular budget of any government agency or instrumentality or
25 public corporation providing any service in connection with the
26 issuance of such bonds; *provided, however*, that bonds may not be

1 issued in an amount that would cause a violation of the debt limitation
2 provisions of 48 USC 1423a (§11 of the Organic Act of Guam).

3 ~~(7) I Maga'låhen Guåhan shall utilize the 2011 Real~~
4 ~~Property Tax Assessment Roll as certified by the Board of~~
5 ~~Equalization in accordance with § 24518 of Chapter 24, Title 11,~~
6 ~~Guam Code Annotated, in calculating the amount available for~~
7 ~~future debt obligation under the Debt Limit (Ceiling) for the~~
8 ~~bond issuance authorized in this Subsection."~~

9 **Section 3. Terms and Conditions of Bonds.**

10 § 1512.3(b) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby
11 amended to read as follows:

12 **“(b) Terms and Conditions Determined by Certificate or Indenture.** The
13 terms and conditions of the bonds shall be as approved by *I Liheslaturan Guåhan*,
14 and as determined by *I Maga'låhen Guåhan* by the execution of a certificate or
15 indenture authorizing the issuance of the bonds, prior to the issuance of the bonds;
16 *provided, however*, that such terms and conditions shall be consistent with this
17 Section, that the first and second series of the bonds shall mature *not* later than
18 thirty-five (35) years after their date of issuance, shall bear interest at such rates and
19 be sold for such price or prices as shall result in a yield to the bondholders that does
20 not exceed six and one half percent (6.5%) per annum, shall require interest only
21 payments for Fiscal Years 2012, 2013 and 2014 and shall not require bond principal
22 payments until after such Fiscal Years, that the third series of the bonds shall mature
23 not later than December 31, 2018, and shall bear interest at such rates and be sold for
24 such price or prices as shall result in the present value of debt service on the third
25 series of the bonds being at least two percent (2%) less than the present value of debt
26 service on the bonds being refunded, using the yield on the third series of the bonds
27 as the discount rate, ~~and~~ that the fourth series of the bonds shall mature not later than

1 November 15, 2039, shall not be used to fund any new money projects and shall
2 bear interest at such rates and be sold for such price or prices as shall result in the
3 present value of debt service on the fourth series of the bonds being at least two
4 percent (2%) less than the present value of debt service on the bonds being refunded,
5 using the yield on the fourth series of the bonds as the discount rate, and that the fifth
6 series of the bonds shall mature not later than thirty-one (31) years after their date of
7 issuance and shall bear interest at such rates and be sold for such price or prices as
8 shall result in a yield to the bondholders that does not exceed six percent (6.0%) per
9 annum. In addition, the fifth series of the bonds may be comprised of one or more
10 series or sub-series of tax-exempt or taxable bonds.

11 **Section 4. Authorization of Use of Proceeds.**

12 A new subparagraph (5) is hereby added to § 1512.3(j) of Article 5, Chapter 1,
13 Title 5, Guam Code Annotated, as follows:

14 “(5) The proceeds from the sale of the fifth bond series shall be used and are
15 hereby appropriated to (i) to finance Z wing demolition and replacement, certain IT
16 system improvements, and any related fixture, furnishing and equipment costs, as
17 well as such other capital improvements approved by the Board of GMHA, (ii) to
18 finance capitalized interest with respect to the bonds, and (iii) to pay expenses
19 relating to the authorization, sale and issuance of the bonds, including without
20 limitation, printing costs, costs of reproducing documents, credit enhancement fees,
21 underwriting, legal, feasibility, financial advisory and accounting fees and charges,
22 fees paid to banks or other financial institutions providing credit enhancement, costs
23 of credit ratings and other costs, charges and fees in connection with the issuance,
24 sale and delivery of the bonds.”

25 **Section 5. Authorization of Statutory Lien with Respect to Current and**
26 **Future Business Privilege Tax Bonds Issued under the Current Indenture.**

1 § 1512.3(d)(2) of Article 5, Chapter 1, Title 5, Guam Code Annotated is
2 hereby *amended in its entirety* to read as follows:

3 (2) Pledge of Business Privilege Tax Revenues. All bonds authorized by
4 Subsection 1512.3 (a) of Article 5, Chapter 1, Title 5, Guam Code Annotated, as
5 may be amended from time to time (“BPT Bonds”), shall be secured by a statutory lien on
6 all tax revenues derived from the levy of the first three and three quarters (3.75)
7 percentage points, out of the total number of percentage points levied from time to
8 time, of the business privilege tax levied pursuant to Article 2 of Chapter 26 of Title
9 11, Guam Code Annotated, or any successor thereto (“Pledged business privilege
10 tax revenues”). This lien shall arise automatically without the need for any action or
11 authorization by *I Maga'låhen Guåhan*, the government of Guam, or any other
12 person or entity. Such lien shall be valid and binding from the time such BPT Bonds
13 are issued. The Pledged business privilege tax revenues shall immediately be subject
14 to such lien, and the lien shall automatically attach to the Pledged business privilege
15 tax revenues and be effective, binding, and enforceable against *I Maga'låhen*
16 *Guåhan*, the government of Guam, their successors, assignees, and creditors, and all
17 others asserting rights therein, irrespective of whether those parties have notice of
18 the lien and without the need for any physical delivery, recordation, filing, or further
19 act. All Pledged business privilege tax revenues received by the government of
20 Guam or by any trustee, depository or custodian shall be deposited in a separate
21 account entitled the “RAF Revenue Fund.” Pledged business privilege tax revenues
22 that are not required to make payments on the BPT Bonds shall automatically, and
23 without the need for any further action, be released from such lien and shall be
24 available for appropriation for any other lawful purpose of the government. The
25 statutory lien described in this paragraph shall not be subject to Division 9 of Title
26 13 of the Guam Code Annotated or any successor statute.

1 In addition to the statutory lien provided for above, all or any part of the
2 Pledged business privilege tax revenues may be pledged, if and to the extent
3 determined by *I Maga'låhen Guåhan*, to secure the payment of any BPT Bonds
4 issued pursuant to that certain Indenture, dated as of December 1, 2011, by and
5 among the government of Guam, Bank of Guam, as trustee, and U.S. Bank National
6 Association, as co-trustee, as amended or supplemented from time to time in
7 accordance with its terms (the "BPT Indenture"). Any such pledge shall be valid and
8 binding against all parties in accordance with its terms and have priority against all
9 parties in accordance with its terms from the time the pledge is made, and property
10 so pledged shall immediately be subject to the lien of the pledge without the need for
11 physical delivery, recordation, filing, or other further act. The pledge shall not be
12 subject to Division 9 of Title 13 of the Guam Code Annotated or any successor
13 statute. The BPT Indenture by which such pledge is created need not be recorded,
14 and shall direct the distribution and disbursement of revenues from the RAF
15 Revenue Fund following their deposit therein. All such taxes to the extent so
16 pledged are hereby continuously appropriated for such purpose. So long as any
17 bonds issued pursuant to the BPT Indenture, including but not limited to those
18 authorized under § 1512.3(a), Title 5, Guam Code Annotated, as may be amended
19 from time to time, remain outstanding, the government of Guam may not reduce the
20 rate of levy and collection of the pledged business privilege tax below three and
21 three quarters percent (3.75%), nor may the government of Guam reduce the
22 services, products or activities to which the pledged business privilege tax applies,
23 nor may the government of Guam upwardly adjust any exception or exclusion to, or
24 otherwise impair, the pledged business privilege tax.

25 **Section 6. Severability.** If a provision of this act or its application to any
26 person or circumstance is held invalid, the invalidity does not affect other provisions

1 or applications of the act that can be given effect without the invalid provision or
2 application, and to this end the provisions of this act are severable.
3