






I Mina'trentai Sais Na Liheslaturan Guåhan  
BILL STATUS

| BILL NO.     | SPONSOR   | TITLE   | DATE INTRODUCED       | DATE REFERRED | CMTE REFERRED | PUBLIC HEARING DATE | DATE COMMITTEE REPORT FILED | FISCAL NOTES | NOTES |
|--------------|---|---|-----------------------|---------------|---------------|---------------------|-----------------------------|--------------|-------|
| 222-36 (COR) | James C. Moylan<br>Tina Rose Muña Barnes<br>Christopher M. Dueñas<br>Frank F. Blas, Jr.<br>V. Anthony Ada | AN ACT TO <i>ADD</i> A NEW ARTICLE 3 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE " <i>SPECIAL QUALIFYING CERTIFICATE; HOMES ACT</i> ", TO HELP ENHANCE ECONOMIC ACTIVITY THROUGH PROVIDING INCENTIVES TO CONSTRUCT OR RENOVATE HOMES AND MULTIPLE FAMILY DWELLINGS; TO ADDRESS HOUSING SHORTFALLS AND RISING HOUSING COSTS; AND TO CITE THIS ACT AS THE " <i>HOUSING OPPORTUNITIES MAKE ECONOMIC SENSE (HOMES) ACT</i> " | 11/8/21<br>10:10 a.m. |               |               |                     |                             |              |       |

***I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN***  
**2021 (FIRST) Regular Session**

**Bill No. 222-36 (COR)**

Introduced by:

James C. Moylan   
Tina Rose Muna Barnes   
Christopher M. Duenas   
Frank F. Blas Jr.   
V. Anthony Ada 

**AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE “*SPECIAL QUALIFYING CERTIFICATE; HOMES ACT*”, TO HELP ENHANCE ECONOMIC ACTIVITY THROUGH PROVIDING INCENTIVES TO CONSTRUCT OR RENOVATE HOMES AND MULTIPLE FAMILY DWELLINGS; TO ADDRESS HOUSING SHORTFALLS AND RISING HOUSING COSTS; AND TO CITE THIS ACT AS THE “*HOUSING OPPORTUNITIES MAKE ECONOMIC SENSE (HOMES) ACT*”.**

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

**Section 1.** This Act shall be known as the “*Housing Opportunities Make Economic Sense (HOMES) Act.*”

**Section 2. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that Guam faces a series of issues when it comes to housing for island residents. It is more than about a shortage of homes for families, rather there is a shortage of “affordable” homes. The island also faces a shortfall on available labor to construct or renovate dwellings, which adversely impacts the cost of labor. Further, there are several challenges with the cost of goods entering our island,

1 thus with an increase in price for needed materials, building a new home or  
2 structure results in higher rentals and mortgages for families, which impacts those  
3 households who may not qualify for federal subsidies.

4 By incentivizing the construction of new homes and multiple family  
5 dwellings, would allow for some off set of the rising costs associated with  
6 constructing a new dwelling. The same would go for renovating existing homes,  
7 and with a special qualifying certificate in place, there would be an opportunity to  
8 mandate that the savings be transferred to the tenants as well. This Act would  
9 provide for a balance to encourage the construction of new housing, apartment  
10 buildings, and condominiums, or the renovation and/or expansion of existing ones  
11 through an array of tax credit options.

12 The measure, if enacted, would also encourage owners of homes to improve  
13 their existing structures through such incentives, to provide to the beautification of  
14 a community, reduce potential illicit activities in such areas, and give their tenants  
15 a structure they can proudly call their home.

16 For every new home which is constructed or renovated, there exists an array  
17 of economic activity. From the compensation paid to those involved with the  
18 construction, the purchases of material and eventually furnishing, to new taxes  
19 contributing to the tax base, financing payments to financial institutions, and the  
20 reciprocation of this activity to other avenues in the community. Thus, Housing  
21 Opportunities Make Economic Sense.

22 **Section 3.** A new Article 3 is hereby *added* to Chapter 58 of Title 12, Guam  
23 Code Annotated, to read as follows:

24 **“ARTICLE 3**  
25 **SPECIAL QUALIFYING CERTIFICATE;**  
26 **HOMES ACT.**  
27

1 § 58301. Legislative Intent of the HOMES Act.

2 § 58302. Definitions.

3 § 58303. Special Qualifying Certificate; Defined.

4 § 58304. Fees.

5 § 58305. Community Contributions.

6 § 58306. Savings for the Tenants.

7 § 58307. “Sunset” Provision.

8 **§ 58301. Legislative Intent of the HOMES Act.**

9 *I Liheslaturan Guahan* finds that there is a need to create a local Housing  
10 Tax Credit Program for the purpose of not only stimulating economic activity  
11 through either the construction of new homes and multiple family dwellings, or the  
12 renovation of existing ones, but to also increase the supply of available and  
13 affordable homes, which is currently facing shortfalls when compared to its  
14 demand. Incentivizing would assist homeowners and developers offset the rising  
15 costs of supplies as well as limitations associated with labor.

16 **§ 58302. Definitions.**

17 For purposes of this Article, the following definitions *shall* apply:

18 (a) Authority: The Guam Economic Development Authority (GEDA)

19 (b) Home or Housing: A dwelling or domicile, is a space used as a  
20 permanent or semi-permanent residence for an individual, group or family.

21 For the purposes of this Article, any tax credits approved pursuant to this  
22 Article *shall* only be available for the construction or a renovation of a home  
23 on a R-1, A, or C Zone, and by extension created by the Parental  
24 Subdivision Program, and *shall* include duplexes.

25 (c) Multiple Family Dwelling: A building containing three (3) or  
26 more dwelling units. A dwelling unit *shall* be defined as one or more rooms  
27 and a single kitchen, designed as a unit for occupancy by one family for

1 living and sleeping purposes. For purposes of this Chapter, a Condominium  
2 shall be considered a Multiple Family Dwelling, and a dwelling shall not be  
3 a hotel.

4 (d) Construction Cost: Expenses incurred by a developer or  
5 homeowner for the construction, renovation, or expansion of any new home  
6 pursuant to § 58302(b) of this Chapter or multiple family dwelling pursuant  
7 to § 58302(c) of this Chapter. Such costs shall include building and site  
8 improvements, A&E and FF&E.

9 (e) For the purposes of the Special Qualifying Certificate for the  
10 HOMES Act, the total cost of the improvements to construct a new home  
11 pursuant to § 58302(b) of this Chapter, shall not exceed Four Hundred  
12 Thousand Dollars (\$400,000).

13 (f) Expansion or Renovation: Existing homes pursuant to § 58302(b)  
14 or multiple family dwellings, pursuant to § 58302(c), both from this Chapter,  
15 may be eligible for this Special Qualifying Certificate if new capital  
16 investment is to be made that will either add to the building or significantly  
17 renovate the property.

18 (g) Renovation Cost; Expenses incurred from modernizing the  
19 elements within a structural part of real property pursuant to § 58302(b)  
20 and/or § 58302(c) of this Chapter, whose total costs are no less than twenty  
21 percent (20%) of the property value and that either:

22 (1) materially increases the value of the property;

23 (2) substantially prolongs the useful life of the property; or

24 (3) adapts the property to a new or better use.

25 (h) Property Value: means the current appraised value of the land and  
26 improvements. The cost of such appraisal shall be borne by the developer or  
27 homeowner. An applicant may provide a previously completed appraisal,

1 granted that such appraisal was performed within one hundred and eighty  
2 (180) days of the date of application filing.

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

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

7 **§ 58303. Special Qualifying Certificate; Defined.**

8 Notwithstanding any other provisions of the law, rule, or regulation to the  
9 contrary, the Special Qualifying Certificate; HOMES Act, is a contract valid for a  
10 given period, executed by *I Maga'hagan Guåhan* (the Governor of Guam) upon  
11 the recommendation of the Authority. This QC *shall* be limited to the construction  
12 of new homes and/or multiple family dwellings or renovations of existing homes  
13 and/or multiple family dwellings, as defined in this Article, and the QC, once  
14 issued and unless suspended, rescinded, or revoked, *shall* constitute conclusive  
15 evidence of entitlement to the tax rebates, abatements, or exemptions set forth on  
16 its face.

17 (a) New Construction of Homes Tax Rebate and Abatement. There  
18 *shall* be allowed to each developer or homeowner, which *shall* be  
19 determined by the Authority, a tax rebate, exemption, and abatement in an  
20 amount equal to twenty percent (20%) of their total construction cost, which  
21 can be applied by the beneficiary at their discretion to the following taxes:

22 (1) One Hundred percent (100%) Business Privilege Tax (BPT)  
23 for twenty (20) years as long as the tax credits are available at the  
24 point they are taken.

25 This BPT exemption *shall* not apply to the levy of three  
26 percentage points (3%), out of the total percentage points levied from

1 time to time, of the BPT, the revenues from which are pledged to the  
2 government of Guam Business Privilege Tax Bonds;

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

5 (3) One hundred percent (100%) Real Property Tax Abatement  
6 for ten (10) years; provided, the fee simple owner taxpayer is the  
7 Qualifying Certificate beneficiary and that the real property on which  
8 the tax is assessed is only utilized by the beneficiary for activities  
9 identified in their qualifying certificate;

10 (4) One hundred percent (100%) of Use Tax Exemption with  
11 respect to the property used to construct, furnish, and equip the new  
12 home. The exemption shall be claimed no later than one (1) year of  
13 issuance of the facility's occupancy permit.

14 (b) Housing Renovation and Expansion Tax Rebate and Abatement.  
15 There shall be allowed to each developer or homeowner, which shall be  
16 determined by the Authority, a tax rebate, exemption, and abatement in an  
17 amount equal to twenty percent (20%) of their total construction cost, which  
18 can be applied by the Beneficiary at their discretion to the following taxes:

19 (1) One Hundred percent (100%) Business Privilege Tax (BPT)  
20 for twenty (20) years as long as the tax credits are available at the  
21 point they are taken.

22 This BPT exemption shall not apply to the levy of three  
23 percentage points (3%), out of the total percentage points levied from  
24 time to time, of the BPT, the revenues from which are pledged to the  
25 government of Guam Business Privilege Tax Bonds;

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

1                   (3) One hundred percent (100%) Real Property Tax Abatement  
2                   for ten (10) years; provided, the fee simple owner taxpayer is the  
3                   Qualifying Certificate beneficiary and that the real property on which  
4                   the tax is assessed is only utilized by the beneficiary for activities  
5                   identified in their qualifying certificate;

6                   (4) One hundred percent (100%) of Use Tax Exemption with  
7                   respect to the property used to construct, furnish, and equip the  
8                   expanded and/or renovated home. The exemption *shall* be claimed no  
9                   later than one (1) year of issuance of the facility's occupancy permit.

10                  (c) New Construction of Multiple Family Dwellings Tax Rebate and  
11                  Abatement. There *shall* be allowed to each developer a tax rebate,  
12                  exemption, and abatement in an amount equal to twenty percent (20%) of  
13                  their total construction cost, which can be applied by the developer at their  
14                  discretion to the following taxes:

15                   (1) One Hundred percent (100%) Business Privilege Tax (BPT)  
16                   for twenty (20) years as long as the tax credits are available at the  
17                   point they are taken.

18                   This BPT exemption *shall* not apply to the levy of three  
19                   percentage points (3%), out of the total percentage points levied from  
20                   time to time, of the BPT, the revenues from which are pledged to the  
21                   government of Guam Business Privilege Tax Bonds;

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

24                   (3) One hundred percent (100%) Real Property Tax Abatement  
25                   for twenty (20) years; provided, the fee simple owner taxpayer is the  
26                   Qualifying Certificate beneficiary and that the real property on which



1 the tax is assessed is only utilized by the beneficiary for activities  
2 identified in their qualifying certificate;

3 (4) One hundred percent (100%) of Use Tax Exemption with  
4 respect to the property used to construct, furnish, and equip the new  
5 multiple family dwelling. The exemption *shall* be claimed no later  
6 than one (1) year of issuance of the facility's occupancy permit.

7 (d) Multiple Family Dwelling Renovation and Expansion Tax Rebate  
8 and Abatement. There *shall* be allowed to each developer a tax rebate,  
9 exemption, and abatement in an amount equal to twenty percent (20%) of  
10 their total construction cost, which can be applied by the developer at their  
11 discretion to the following taxes:

12 (1) One Hundred percent (100%) Business Privilege Tax (BPT)  
13 for twenty (20) years as long as the tax credits are available at the  
14 point they are taken.

15 This BPT exemption *shall* not apply to the levy of three  
16 percentage points (3%), out of the total percentage points levied from  
17 time to time, of the BPT, the revenues from which are pledged to the  
18 government of Guam Business Privilege Tax Bonds;

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

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

26 (4) One hundred percent (100%) of Use Tax Exemption with  
27 respect to the property used to construct, furnish, and equip the

1 expanded and/or renovated building. The exemption *shall* be claimed  
2 no later than one (1) year of issuance of the facility's occupancy  
3 permit.

4 (e) Application Period. Eligible developers for this special QC  
5 pursuant to § 58303(a) and § 58303(c) of this Chapter *shall* file their  
6 application prior to issuance of the construction project building permit.  
7 Eligible developers for this special QC pursuant to § 58303(b) and §  
8 58303(d) of this Chapter *shall* be able to apply at any time, granted that for  
9 the purposes of calculating their twenty percent (20%) tax benefit amount,  
10 any construction costs invoiced prior to the official application submission  
11 date *shall* be deemed ineligible.

12 (f) Benefit Negotiations. The Authority has the sole authority to  
13 negotiate the terms of the QC. Negotiations *shall* be completed prior to  
14 issuance of the housing project or multiple family dwelling's building  
15 permit, if applicable. The Authority *shall* have up to thirty (30) days from  
16 the submittal of a completed application to approve or deny a completed QC  
17 application, pursuant to this Article.

18 (g) Notwithstanding any other provisions of the law, rule, or  
19 regulation to the contrary, any construction or renovation project where tax  
20 credits, rebates, abatements, or exemptions are provided by the federal  
21 government *shall* not qualify for this Special Qualifying Certificate.

22 **§ 58304. Fees.**

23 The Authority *shall* have no more than thirty (30) days from the enactment  
24 of this Act to establish the Fees for the Special Qualifying Certificate pursuant to  
25 this Article. As to the annual compliance monitoring fees, the fee *shall* be assessed  
26 annually until such time as the QC beneficiary has exhausted the total dollar  
27 amount of its QC benefit.

1 **§ 58305. Community Contributions.**

2 As a condition of this Special QC, the QC beneficiary shall make a  
3 community contribution to the Authority in an amount equal to 0.5% of the total  
4 construction cost. The terms of the community contributions shall be subject to  
5 negotiations between the Authority and the developer. Distribution of funds to be  
6 approved by the GEDA Board, based on the recommendation of the Administrator,  
7 shall be to the following areas:

8 (a) funding for the maintenance and upkeep of public facilities;

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

11 (c) higher education and cultural preservation; or

12 (d) the Guam Contractors Association's Trades Academy.

13 **§ 58306. Savings for the Tenants.**

14 If the purpose of the construction of a new home or multiple family  
15 dwelling, or the renovation of an existing home or multiple family dwelling is for  
16 the homeowner or dwelling owner to either resale, rent, or lease, as part of the  
17 application process for the QC, pursuant to this Article, the Beneficiary shall  
18 provide a plan to the Authority as to how the approval of the QC shall translate to a  
19 monetary savings for the tenants of the new or renovated home or dwelling.  
20 Failure to comply by this plan once the QC is approved and issued, shall result in a  
21 suspension or revocation of the QC.

22 **58307. "Sunset" Provision.**

23 This Article shall take effect on its approval by I Maga'hagan Guåhan and  
24 shall remain in effect for five (5) years:

25 The GEDA Board, at its discretion, with input from I Liheslatura (the  
26 Legislature), the Guam Chamber of Commerce, the Guam Contractors  
27 Association, Guam Association of Realtors, I Maga'hagan Guåhan, and the

1 community, shall re-examine the effectiveness and need of the program to  
2 determine if it should be extended, and may extend the effectiveness of this Article  
3 for up to an additional five (5) years by adopting a resolution to such effect prior to  
4 the expiration date. Any QC issued under the conditions of this Article shall  
5 remain in full force and effect until its term expires or it is canceled on other  
6 grounds.”

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

12       **Section 5. Effective Date.** The Act *shall* be effective upon enactment.

**From:** Office of Senator Moylan Guam Legislature <officeofsenatormoylan@guamlegislature.org>  
**Sent:** Monday, November 8, 2021 10:10 AM  
**To:** Clerks Office  
**Subject:** IMPORTANT: JCM Bill for Introduction  
**Attachments:** Legislation on the HOMES ACT.docx; PDFLegislation.HOMESACT.pdf

Hafa Adai Clerks,

Please see attached JCM bill for introduction this morning.

Thank you & have a great day!

--

Office of Senator James "Jim" C. Moylan  
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