

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
306-36 (COR)	Joe S. San Agustin Tina Rose Muña Barnes Christopher M. Dueñas James C. Moylan	AN ACT TO AMEND §§58104(k) AND 58136 OF ARTICLE 1, CHAPTER 58, TITLE 12, AND TO ADD A NEW ARTICLE 3 TO CHAPTER 58, TITLE 12 GUAM CODE ANNOTATED RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES FOR CAPTIVE INSURANCE COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS OUTSIDE OF GUAM.	5/17/22 4:35 p.m.						

I MINA' TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

Bill No. 306-36 (COR)

Introduced by:

Joe S. San Agustin 

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**AN ACT TO AMEND §§58104(k) AND 58136 OF
ARTICLE 1, CHAPTER 58, TITLE 12, AND TO ADD
A NEW ARTICLE 3 TO CHAPTER 58, TITLE 12
GUAM CODE ANNOTATED RELATIVE TO THE
ISSUANCE OF QUALIFYING CERTIFICATES FOR
CAPTIVE INSURANCE COMPANIES WHO
WHOLLY UNDERWRITE INSURANCE RISKS
OUTSIDE OF GUAM.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the Qualifying Certificate (QC) program has been a vital catalyst for Guam's economic development over the last five (5) decades with the Guam Economic Development Authority having great success in the promotion and implementation of the program. *I Liheslaturan Guåhan* further finds that the 23rd Guam Legislature introduced and passed PL 23-109, which authorized the issuance of QCs to captive insurance and other domestic insurance companies.

I Liheslaturan Guåhan notes that the establishment of a vibrant captive insurance industry has the potential to attract not only millions of dollars to Guam, but is also a means to foster the development of an expanded financial services industry in Guam, which will elevate Guam's presence in the international financial community. By allowing international captive insurance companies to domicile and take advantage

1 of the QC tax benefits in Guam, the government of Guam has the potential to reap
2 significant economic benefits.

3 Lastly, *I Liheslaturan Guåhan* further finds that Guam already has significant
4 regulatory framework to properly monitor and regulate the captive insurance industry,
5 as Guam has had a captive insurance law for over two decades. Efforts made by *I*
6 *Liheslatura* to enhance the QC program with regards to captive insurance companies
7 who wholly underwrite insurance risks outside of Guam will increase the viability and
8 attractiveness of the program to international corporations looking to establish a
9 captive insurance company. Enhancing the ability for Guam to attract new captive
10 insurance companies has the potential to bring significant new investment dollars into
11 Guam.

12 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend sections 58104(k)
13 and 58136 as well as to add a new Article 3 to Chapter 58, Title 12 Guam Code
14 Annotated to establish a distinct Special QC specifically for captive insurers.

15 **Section 2.** §58104(k) of Article 1, Chapter 58, Title 12 Guam Code Annotated
16 is hereby *amended* to read:

17 “(k) insurance issuance, either by commercial insurers, reinsurers, or
18 captive insurers which meet the requirements of Title 22, GCA, Chapter 15,
19 Article 3. Applications for a Qualifying Certificate for captive insurers who
20 wholly underwrite insurance risks outside of Guam are subject to the
21 requirements of Article 3 of this Chapter;”

22 **Section 3.** §58136 of Article 1, Chapter 58, Title 12 Guam Code Annotated is
23 hereby *amended* to read:

24 **“§ 58136. Abatement of Tax.**

25 When the return for the abated tax is accompanied by a ~~corresponding~~
26 certificate of compliance, ~~for the previous year or part thereof~~ then the actual

1 payment of the tax in question to the government of Guam shall not be required,
2 and upon review of the tax return, the Tax Commissioner of Guam shall, within
3 one hundred twenty (120) days from receipt of said tax return, furnish the
4 taxpayer a certification confirming the nature and amount of the tax abated.”

5 **Section 4.** A new Article 3 of Chapter 58, Title 12 Guam Code Annotated is
6 hereby *added* to read:

7 **“ARTICLE 3**

8 **SPECIAL QUALIFYING CERTIFICATE; CAPTIVE INSURANCE**
9 **COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS**
10 **OUTSIDE OF GUAM.**

11 **§ 58301. Special Qualifying Certificate; Captive Insurance Companies who**
12 **Wholly Underwrite Insurance Risks Outside of Guam Established.**

13 **§ 58302. Definitions.**

14 **§ 58303. Special Qualifying Certificate for Captive Insurance Companies**
15 **who Wholly Underwrite Insurance Risks Outside of Guam Defined.**

16 **§ 58304. Application and Compliance.**

17 **§ 58305. Fees.**

18 **§ 58306. Community Contributions.**

19 **§ 58307. Compliance.**

20
21 **§ 58301. Special Qualifying Certificate; Captive Insurance Companies who**
22 **Wholly Underwrite Insurance Risks Outside of Guam Established.**

23 There is hereby established a Special Qualifying Certificate (QC) for
24 Captive Insurance Companies who wholly underwrite insurance risks outside of
25 Guam, which shall entitle the Beneficiary to tax rebates and tax abatements in
26 return for meeting the conditions and requirements prescribed by the Guam

1 Economic Development Authority (the “Authority”) in this Article, in the
2 Qualifying Certificate and in any other part of Chapter 58 Title 12 Guam Code
3 Annotated deemed necessary and appropriate by the Authority. Any captive
4 insurance company that underwrites insurance risks in Guam is ineligible for the
5 Special Qualifying Certificate authorized in this Article, and must apply for a
6 QC pursuant to Article 1 of this Chapter.

7 **§ 58302. Definitions.**

8 For purposes of this Article 3, the following definitions will apply:

9 (a) Authority: The Guam Economic Development Authority
10 (GEDA);

11 (b) Captive Insurance Company: For purposes of this Article and
12 unless the context otherwise requires, captive insurance company means
13 any entity formed under Chapter 23, Division 2, Title 22, Guam Code
14 Annotated (the Captive Insurance Law) and other applicable Guam laws,
15 rules, regulations and requirements;

16 (c) Commissioner: The Commissioner of Banking and Insurance;

17 (d) Beneficiary: Entities issued a Special QC pursuant to this
18 Article;

19 (e) QC Law: The entirety of Chapter 58 Title 12 Guam Code
20 Annotated.

21 **§ 58303. Special Qualifying Certificate for Captive Insurance Companies**
22 **who Wholly Underwrite Insurance Risks Outside of Guam Defined.**

23 The Special Qualifying Certificate (QC) for Captive Insurance
24 Companies who wholly underwrite insurance risks outside of Guam is a contract
25 valid for a given period, executed by the Governor of Guam based upon the
26 recommendation of the Authority. Only duly formed captive insurance

1 companies may become a beneficiary of this Special QC program. The QC, once
2 issued and unless suspended, rescinded or revoked, shall constitute conclusive
3 evidence of entitlement to the tax rebates and abatements set forth on its face.

4 (a) Captive Insurer Tax Rebate and Abatement. There shall be
5 allowed to each beneficiary a tax rebate and abatement for the following
6 taxes:

7 (1) Corporate Income Tax:

8 A rebate of one hundred percent (100%) of all income tax
9 paid to the government of Guam by a Beneficiary on all income
10 received from insurance underwriting outside of Guam, including
11 all income derived from investing funds derived from operating an
12 insurance underwriting business on Guam for a period of twenty
13 (20) consecutive years from the effective date of a Qualifying
14 Certificate.

15 (2) A rebate on Dividends to Shareholders of Qualified
16 Insurance Underwriters:

17 A rebate of one hundred percent (100%) of the income tax
18 withheld from the shareholders of an insurance underwriting
19 business on the dividends from such business may be issued for a
20 period of twenty (20) consecutive years from the effective date of
21 the Qualifying Certificate therefor; provided, that:

22 (i.) the insurance underwriting business paying the
23 dividends is the Beneficiary of a Qualifying Certificate;

24 (ii.) the dividends are paid from the insurance or
25 investment earnings of such business as identified in its
26 Qualifying Certificate, which dividends were received, on a

1 cash basis, during the original or an extended period of the
2 Qualifying Certificate; and

3 (iii.) the dividends were subject to a withholding tax
4 thereon pursuant to those provisions of the Territorial
5 Income Tax Law requiring the withholding as income tax
6 thereon of a fixed percentage of any dividends paid to
7 nonresidents of Guam.

8 If the shareholder is a resident of Guam then such
9 shareholder may be granted a Qualifying Certificate on dividends
10 pursuant to § 58130 of this Chapter.

11 (2) Business Privilege Tax (BPT):

12 All taxes now levied by virtue of Article 2, Chapter 26, Title
13 11, Guam Code Annotated, known as business privilege taxes,
14 shall be abated for a period of twenty (20) years from the effective
15 date of the Qualifying Certificates therefor, for those gross receipts
16 derived from underwriting insurance risks outside of Guam,
17 including gross receipts from investing funds derived from
18 operating an insurance underwriting business on Guam by a
19 captive insurance company that has qualified and continues to
20 qualify for a Qualifying Certificate.

21 (b) No captive insurer shall be eligible for any other Qualifying
22 Certificate tax rebate, abatement or exemption not authorized in the
23 Article.

24 **§ 58304. Application and Compliance.**

25 (a) Applications for such Special QCs shall be on a form prescribed by
26 the Authority, with all necessary supporting documentation submitted and

1 appropriate fees first being duly paid prior to the acceptance of any application.
2 The Authority shall use applicable existing laws, rules, regulations and standard
3 operating procedures in its dispensing and analysis of all applications under this
4 Special QC program, however, certain provisions of 12 GCA Chapter 58 or
5 successor laws shall not apply to any captive insurance company applying for a
6 Special Qualifying Certificate pursuant to this Article, specifically §§ 58105.1,
7 58112, 58116, 58117, 58118, 58119, 58123, 58124 and 58125.

8 (b) All beneficiaries shall comply with all requirements as set forth by
9 the Commissioner of Banking and Insurance and all applicable laws of Guam. In
10 addition, the Authority may apply any compliance requirements contained in the
11 QC law as it deems necessary and applicable. Such compliance requirements
12 shall be included in each Special QC as executed by the Governor of Guam.”

13 **Section 5. Effective Date.** This act shall be effective immediately upon
14 enactment.

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