

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
66-36 (COR) As amended by the Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts	James C. Moylan Tina Rose Muña Barnes	AN ACT TO <i>AMEND</i> § 58206, § 58202, AND § 58203, FROM ARTICLE 2 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO MODIFYING THE SUNSET PROVISION OF THE "SPECIAL QUALIFYING CERTIFICATE; 1,600 HOTEL ROOMS DEVELOPMENT" PROGRAM; AND, <u>ADDING THE COSTS OF RENOVATION AS BEING ELIGIBLE FOR CERTAIN BENEFITS AS A NEW FEATURE OF THE PROGRAM.</u>	3/2/21 9:49 a.m.	3/2/21	Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts			Request: 3/3/21 Waiver: 3/10/21	8/30/21 10:43 a.m. Accepted by the Committee on Rules on August 26, 2021, be processed and posted on the legislature website for public accessibility.



Vice Speaker

TINA ROSE MUÑA BARNES

CHAIRPERSON, COMMITTEE ON RULES

I Mina'trentai Sais Na Liheslaturan Guåhan

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August 26, 2021

MEMO

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Amanda L. Shelton** 
Acting Chairperson, Committee on Rules

Subject: **Bill No. 66-36 (COR) As amended by the Committee**

Håfa Adai,

As per my authority as Acting Chairperson of the Committee on Rules, please ensure that **Bill No. 66-36 (COR) As amended by the Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts. – James C. Moylan, Tina Rose Muña Barnes- “AN ACT TO AMEND § 58206, § 58202, AND § 58203, FROM ARTICLE 2 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO MODIFYING THE SUNSET PROVISION OF THE “SPECIAL QUALIFYING CERTIFICATE; 1,600 HOTEL ROOMS DEVELOPMENT” PROGRAM; AND, ADDING THE COSTS OF RENOVATION AS BEING ELIGIBLE FOR CERTAIN BENEFITS AS A NEW FEATURE OF THE PROGRAM.”**, accepted by the Committee on Rules on August 26, 2021, be processed and posted on the legislature website for public accessibility.

For any questions or concerns, please feel free to contact Mary Maravilla, Committee on Rules Director, at 472-2461. Thank you and *Si Yu'os Ma'åse'* for your attention to this matter.

Cc: Senator Clynton E. Ridgell, Chairperson of Economic Development, Agriculture, Power and Energy Utilities, and the Arts

Senator James C. Moylan, Sponsor

Legal Counsel





Clynton E. Ridgell

Senator – 36th Guam Legislature

*Committee on Economic Development, Agriculture, Power and Energy Utilities,
and the Arts*

August 26, 2021

TO: Senator Amanda L. Shelton
Acting Chairperson - Committee on Rules

FROM: Senator Clynton E. Ridgell
Chairperson – Committee on Economic Development, Agriculture, Power and
Energy Utilities, and the Arts

RE: Bill No. 66-36 (COR) Amended

Håfa adai Senator Shelton:

The Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts will be conducting a Public Hearing on Tuesday, September 7, 2021, on Amended Bill No. 66-36 (COR). We are requesting for Bill No. 66-36 (COR) Amended to be posted and available on the Guam Legislature Website.

Please contact our office if you have any questions.

Si Yu'os ma'åse',

Clynton E. Ridgell

COMMITTEE ON RULES

RECEIVED:

August 26, 2021

3:53 P.M.

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

Bill No. 66-36 (COR)

As amended by the Committee on
Economic Development, Agriculture,
Power and Energy Utilities, and the Arts.

Introduced by:

James C. Moylan
Tina Rose Muna Barnes

AN ACT TO AMEND § 58206, § 58202, AND § 58203, FROM ARTICLE 2 OF CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO MODIFYING THE SUNSET PROVISION OF THE “SPECIAL QUALIFYING CERTIFICATE; 1,600 HOTEL ROOMS DEVELOPMENT” PROGRAM; AND, ADDING THE COSTS OF RENOVATION AS BEING ELIGIBLE FOR CERTAIN BENEFITS AS A NEW FEATURE OF THE PROGRAM.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that on December 31, 2014, former Governor Eddie B. Calvo enacted Public Law
4 32-233 which created a “Special Qualifying Certificate” to develop an additional
5 1,600 Hotel Rooms on Guam. At the time, the visitor industry stated that there were
6 many opportunity losses for Guam’s tourism as the supply of hotel rooms was not
7 meeting the demand of the island’s arrival numbers. However, because of the
8 limitations with available manpower to construct these rooms, a special program was
9 created to attract investors.

10 PL 32-233, which was originally authored by former Senator Dennis
11 Rodriguez Jr., established a five-year Sunset Provision for the program. However,

1 the enacted measure did include language to provide the Guam Economic
2 Development Authority’s (GEDA) Board of Directors the opportunity to extend the
3 program for an additional two years, if the 1,600 rooms were not developed within
4 that timeframe. On December 31, 2019, the “Special Qualifying Certificate; 1,600
5 Hotel Rooms Development” program expired. Because only one entity was able to
6 successfully attain the qualifying certificate with the intent of building less than 350
7 rooms, the GEDA Board availed the two-year extension pursuant to the process
8 established in the statute.

9 On December 31, 2021, the two-year extension for the program shall expire.
10 While Guam’s economy, inclusive of our tourism industry, is currently in a standstill
11 due to the global crisis, there is much optimism that our visitor arrival numbers will
12 get back to the pre-pandemic numbers over the next three to five years. There is also
13 an opportunity for investors to take this time to seek the financing for preparation of
14 the potential demand of additional hotel rooms for the near future. This is also an
15 ideal time for existing hotels to consider expanding their inventory of rooms since
16 occupancy numbers are low, thus reducing any adverse convenience impacts for
17 guests.

18 Therefore, it is paramount that this Special Qualifying Certificate program
19 be provided an extension of another [~~three~~] ten years, along with the two-year
20 extension opportunity by the GEDA Board, with the objectives of getting to the goal
21 of 1,600 additional hotel rooms. The program will automatically expire if the total
22 rooms mandated by the Act are fulfilled prior to the three years. Likewise, any new
23 construction in 2022 and beyond, which was created by the extension would result
24 in many new jobs and an additional tax, both of which would help Guam’s economy.

25 *I Liheslaturan Guåhan* further finds that although COVID-19 may have
26 reduced to some extent the need for new hotel rooms in the short term, there still
27 exists a need to provide adequate incentives for existing hotel owners and operators

1 to make substantial improvements to their properties. To provide these incentives,
2 the Special Hotel QC program is to be expanded, with specific tax incentives for
3 new hotel construction, and adding a new feature allowing the renovation or
4 expansion of existing hotels to be eligible for certain tax incentives. By doing so,
5 this expanded program will provide GEDA the flexibility to meet the needs of the
6 hotel and tourism industry during this time of economic recovery.

7 **Section 2.** § 58206 from Article 2, of Chapter 58, Title 12, Guam Code
8 Annotated is hereby *amended* to read as follows:

9 **“§ 58206. “Sunset” Provision.** This Article shall take effect on its approval
10 by *I Maga’lahen Guåhan* and shall remain in effect until the earlier of:

11 (a) ~~five (5) years~~ December 31, [2024]2031; or

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

13 ~~(c) a China Visa Waiver or China Visa Parole declaration has been approved for~~
14 ~~Guam;]~~ upon which period this Article shall automatically be deemed repealed;

15 provided, however, that the GEDA Board, at its discretion, with input from *I*
16 *Liheslatura* (the Legislature), the visitor industry, the Administration, and the
17 community as a whole, will re-examine the effectiveness and need of the program
18 to determine if it should be extended, and may extend the effectiveness of this Article
19 an additional two (2) years by adopting a resolution to such effect prior to the
20 expiration date. Any QC issued under the conditions of this Article shall remain in
21 full force and effect until its particular term expires or it is canceled on other
22 grounds.”

23 **Section 3.** Section 58202 of Article 2, Chapter 58, Title 12 Guam Code
24 Annotated is hereby amended to read:

25 **“§ 58202. Definitions.** For purposes of this Article 2, the following
26 definitions will apply:

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

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

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

9 (d) Hotel Expansion or Renovation: Existing Guam hotels may be eligible for
10 this special hotel QC if new capital investment is to be made that will either add to
11 the hotel's room inventory or significantly renovate the property.

12 (e) Renovation Cost: Expenses incurred from modernizing the elements
13 within a structural part of real property, whose total costs are no less than [~~twenty~~]
14 ten percent (~~[2]10%~~) of the property value, and that either:

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

16 (2) substantially prolongs the useful life of the property;

17 or

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

19 (f) Property Value: means the current appraised value of the land and
20 improvements. The cost of such appraisal shall be borne by the hotel developer. An
21 applicant may provide a previously completed appraisal, granted that such appraisal
22 was performed within one hundred and eighty (180) days of the date of application
23 filing.

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

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

1 **Section 4. Section 58203 of Article 2, Chapter 58, Title 12 Guam Code**
2 **Annotated is hereby amended to read:**

3 **“§ 58203. Special Hotel Qualifying Certificate Defined.**

4 The Special Hotel Qualifying Certificate (QC) is a contract valid for a given period,
5 executed by *I Maga'lahaen Guåhan* (the Governor of Guam) upon the
6 recommendation of the Authority. The QC, once issued and unless suspended,
7 rescinded or revoked, shall constitute conclusive evidence of entitlement to the tax
8 rebates, abatements, or exemptions set forth on its face.

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

13 (1) Fifty percent (50%) Business Privilege Tax (BPT) for twenty (20)
14 years as long as the tax credits are available at the point they are taken. This
15 BPT exemption shall not apply to the levy of three percentage points (3%),
16 out of the total percentage points levied from time to time, of the BPT, the
17 revenues from which are pledged to the government of Guam Business
18 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 for ten
22 (10) years; provided, the fee simple owner tax payer is the Qualifying
23 Certificate beneficiary and that the real property on which the tax is assessed
24 is only utilized by the beneficiary for activities identified in their qualifying
25 certificate;

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

1 The exemption must be claimed no later than one (1) year of issuance of the
2 facility's occupancy permit.

3 **(b) Hotel Renovation and Expansion Tax Rebate and Abatement.** There
4 shall be allowed to each developer a tax rebate, exemption, and abatement in an
5 amount equal to twenty percent (20%) of their total construction cost, which can be
6 applied by the developer at their discretion to the following taxes:

7 (1) Fifty percent (50%) Business Privilege Tax (BPT) for twenty (20)
8 years as long as the tax credits are available at the point they are taken. This
9 BPT exemption shall not apply to the levy of three percentage points (3%),
10 out of the total percentage points levied from time to time, of the BPT, the
11 revenues from which are pledged to the government of Guam Business
12 Privilege Tax Bonds;

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

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

20 (4) One hundred percent (100%) of Use Tax Exemption with respect to
21 the property used to construct, furnish and equip the expanded and/or
22 renovated building. The exemption must be claimed no later than one (1) year
23 of issuance of the facility's occupancy permit.

24 **(bc) Application Period.** Eligible developers for this special QC pursuant to
25 § 58203(a) shall file their application prior to issuance of the hotel project building
26 permit. Eligible developers for this special QC pursuant to § 58203(b) shall be able

1 to apply at any time, granted that for the purposes of calculating their twenty percent
2 (20%) tax benefit amount, any construction costs invoiced prior to the official
3 application submission date shall be deemed ineligible.

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

7 **Section 35. Severability.** If any provision of this Act or its application to any
8 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
9 *not* affect other provisions or applications of this Act that can be given effect without
10 the invalid provision or application, and to this end the provisions of this Act are
11 severable.

12 **Section 46. Effective Date.** This Act *shall* become effective immediately
13 upon enactment.