

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN

2021 (FIRST) Regular Session

VOTING RECORD

	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building February 22, 2021					
NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator V. Anthony Ada	✓					
Senator Frank Blas Jr.	✓					
Senator Joanne Brown	✓					
Senator Christopher M. Dueñas	✓					
Senator James C. Moylan	✓					
Vice Speaker Tina Rose Muña Barnes	✓					
Senator Telen Cruz Nelson	✓					
Senator Sabina Flores Perez	✓					
Senator Clynton E. Ridgell	✓					
Senator Joe S. San Agustin	✓					
Senator Amanda L. Shelton	✓					
Senator Telo T. Taitague	✓					
Senator Jose "Pedo" Terlaje	✓					
Speaker Therese M. Terlaje	✓					
Senator Mary Camacho Torres	✓					

TOTAL

15

0

Aye

Nay

Not Voting/
Abstained

Out During
Roll Call

Absent

Excused

CERTIFIED TRUE AND CORRECT:



 RENNAE V. C. MENO
 Clerk of the Legislature

I = Pass

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

Bill No. 39-36 (COR)

As amended by the Committee on Health, Land,
Justice, and Culture; and further amended on the Floor.

Introduced by:

Therese M. Terlaje
Christopher M. Dueñas
Joanne Brown
Telo T. Taitague
Sabina Flores Perez
V. Anthony Ada
Frank Blas Jr.
James C. Moylan
Tina Rose Muña Barnes
Telena Cruz Nelson
Clynton E. Ridgell
Joe S. San Agustin
Amanda L. Shelton
Jose “Pedo” Terlaje
Mary Camacho Torres

**AN ACT TO AMEND §§ 61303(a), 61620, 61634, AND 61645
OF CHAPTER 61, AND §§ 66208, 66212(a), 66303, 66307,
66406(a), AND 66407 OF CHAPTER 66, ALL OF TITLE 21,
GUAM CODE ANNOTATED, RELATIVE TO
ENFORCING THE TERMS AND CONDITIONS OF
CONDITIONAL USE PERMITS, VARIANCES, AND
ZONE CHANGES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the terms and conditions placed by the Guam Land Use Commission on

1 approval of zone changes, variances, or conditional use applications are difficult to
2 enforce after building permits and occupancy permits are issued, resulting in
3 unfulfilled obligations or projects that impose hardship on adjacent properties or the
4 public, which should have been mitigated. Adding provisions to the law which
5 clearly tie said conditions of approval to land records and building permits will make
6 it easier for both the Department of Land Management and the Department of Public
7 Works to keep track of and enforce the terms and conditions as obligations that run
8 with the land and with the building or occupancy permit.

9 **Section 2. Terms and Conditions of Approval by GLUC for**
10 **Conditional Use.** § 61303(a) of Article 3, Chapter 61, Title 21, Guam Code
11 Annotated, is hereby *amended* to read:

12 “(a) In addition to permitted uses in each of the zones, specified uses
13 are permitted upon approval by the Commission of the site plan including, but
14 not limited to, disposal of sewage, access, parking, structure location and
15 dimensions of buildings, impact of the proposed use on adjacent land uses,
16 and accompanying covenants that may include performance standards. The
17 Commission shall also consider such other elements as may be reasonably
18 related to the health, safety and general welfare of the community. Copies of
19 the decision by the Commission shall be filed with the Department of Land
20 Management’s Office of the Registrar and in the records of the Department of
21 Public Works. All terms and conditions imposed by the Commission upon
22 approval of a conditional use permit shall be covenants that run with the land
23 in perpetuity for that specific conditional use. Maintenance of terms and
24 conditions imposed by the permit shall be the responsibility of the property
25 owner. The Guam Land Use Commission is authorized to revoke approval of
26 a conditional use permit for any failure to comply with the terms and
27 conditions of the conditional use. The Director of Land Management shall

1 withhold approval or endorsement of any building permit, certificate of
2 occupancy, or license for use of said property for any failure to comply with
3 the terms and conditions of the conditional use as set forth by the Commission
4 in approving the conditional use permit.”

5 **Section 3. Terms and Conditions of Approval by GLUC for Variances.**

6 § 61620 of Article 6, Chapter 61, Title 21, Guam Code Annotated, is hereby
7 *amended* to read:

8 **“§ 61620. Decision by Guam Land Use Commission.**

9 If, from the facts presented with the application at the hearing, or by
10 investigation by or at the instance of the Commission, the Commission makes
11 the findings set forth in § 61617, it may grant the variance in whole or in part,
12 upon such terms and conditions as it deems necessary to conform to the
13 general intent and purpose of this law. If the Commission fails to make said
14 findings, it shall deny the application. Each decision by the Commission
15 authorizing a variance from the regulations herein established must be by
16 resolution adopted by a majority of its membership, setting forth in writing
17 the findings required by § 61617, except that no written findings shall be
18 required in granting minor variances from the height, yard, lot width, lot area
19 or lot area per dwelling unit requirements. The Commission shall make its
20 decision on each variance application within a reasonable time and shall
21 forthwith furnish a copy thereof to the applicant and to other parties in interest
22 who have requested to be notified. Additional copies of the decision shall be
23 filed in the records of the Department of Land Management’s Office of the
24 Registrar and in the records of the Department of Public Works. If the decision
25 filed involves a variance granted by the Commission, said variance shall be
26 the authority for the Director of Land Management to endorse and to issue
27 any building permit or certificate of occupancy in conformance thereto and

1 for the approval of any application for the approval of a required license. The
2 Director of Land Management shall withhold approval of or endorsement for
3 the issuance of a building permit, certificate of occupancy, or license for any
4 failure to conform to the terms and conditions of the variance as set by the
5 Guam Land Use Commission in granting the variance.”

6 **Section 4. Terms and Conditions of Approval for Zone Change.** § 61634
7 of Article 6, Chapter 61, Title 21, Guam Code Annotated is *amended* to read:

8 **“§ 61634. Decision by Guam Land Use Commission.**

9 (a) The Commission shall consider the proposed change of zone and
10 may approve or disapprove the same, in whole or in part. The Commission
11 shall make its findings and determination within forty (40) days from the date
12 of the hearing thereon and shall forward notice of such decision to the
13 applicant, if any. If the application is approved in whole or in part by the
14 Commission, the same shall be forwarded to the Governor who may approve
15 or disapprove the proposed change in whole or in part.

16 (b) Copies of the decision adopted by the Commission and approved
17 by the Governor shall be filed in the records of the Department of Land
18 Management’s Office of the Registrar and in the records of the Department of
19 Public Works. Terms and conditions or covenants imposed by the
20 Commission and the Governor upon approval of a change of zone shall be
21 covenants that run with the land in perpetuity, whereupon the maintenance of
22 special conditions imposed and compliance with such covenants shall be the
23 responsibility of the property owner. The Director of Land Management shall
24 withhold approval of or endorsement for the issuance of any building permit,
25 certificate of occupancy, or license for use of said property for any failure to
26 conform to the terms and conditions of the change of zone as set by the
27 Commission and the Governor.”

1 **Section 5. Terms and Conditions of Approval of Zone Change to be**
2 **Recorded.** § 61645 of Article 6, Chapter 61, Title 21, Guam Code Annotated, is
3 *amended* to read:

4 **“§ 61645. Recording.**

5 Upon the approval of any zoning map or amendment thereto, a copy of
6 the same together with any terms and conditions of said approval shall be
7 recorded in the Department of Land Management’s Office of the Registrar.”

8 **Section 6. Terms and Conditions of Approval by GLUC to be Recorded**
9 **with Building Permit.** § 66208 of Article 2, Chapter 66, Title 21, Guam Code
10 Annotated, is hereby *amended* to read:

11 **“§ 66208. Same: Action Upon.**

12 (a) The building official shall act upon each application for a
13 building permit without unreasonable or unnecessary delay. On finding
14 conformity with all the requirements of this and other applicable laws, the
15 building official shall, upon receipt of the required fee, issue the permit to the
16 applicant which shall specifically and clearly state any terms and conditions
17 imposed by the Guam Land Use Commission or the Department of Public
18 Works that are not stated as mandates in the application, plans, or
19 specifications.

20 (b) If an application for a permit, or the plans and specifications
21 submitted therewith, describe proposed work not in conformity with all the
22 requirements of this and other applicable laws, or not in compliance with the
23 Guam Land Use Commission terms and conditions on approval of conditional
24 use, variance, or zone change, or do not contain sufficient information to
25 enable the building official to reach a decision, he shall not issue a permit, but
26 shall return the plans and specifications to the applicant, together with his
27 refusal to issue such permit, and reason therefor. The building official, upon

1 request of the applicant, shall make such refusal, containing the reasons
2 therefor, in writing.”

3 **Section 7. Terms and Conditions of Approval by GLUC To Be**
4 **Enforced With Building Permit.** § 66212(a) of Article 2, Chapter 66, Title 21,
5 Guam Code Annotated, is hereby *amended* to read:

6 “(a) The issuance of a building permit or approval of plans and
7 specifications shall not be construed to be a permit for, or approval of any
8 violation of the provisions of this Chapter or of the terms and conditions
9 imposed by the Guam Land Use Commission or the Department of Public
10 Works on the use of the property or project. Any building permit presuming
11 to cancel such provisions or condone such violations shall be entirely invalid
12 and void.”

13 **Section 8. Terms and Conditions of Approval by GLUC to be Enforced**
14 **upon Application for Certificate of Occupancy.** § 66303 of Article 3, Chapter 66,
15 Title 21, Guam Code Annotated, is hereby *amended* to read:

16 “§ 66303. Same. Content.

17 In addition to the certification as to compliance with the provisions of
18 this Chapter, the certificate of occupancy shall state the purposes for which
19 the building may be used in its several parts, the maximum permissible live
20 loads on the several floors, the number of individual persons that may be
21 accommodated in the several stories, in case such number is limited by
22 provision of law or by the permit, and whether the structure is a fully-concrete
23 dwelling installed with typhoon shutters, and shall clearly and specifically
24 state any additional terms and conditions imposed by the Guam Land Use
25 Commission or the Department of Public Works.”

1 **Section 9. Violation of Terms and Conditions of Approval by GLUC as**
2 **Grounds for Denial of Certificate of Occupancy.** § 66307 of Article 3, Chapter
3 66, Title 21, Guam Code Annotated, is hereby *amended* to read:

4 “§ 66307. **Same: Issuance or Denial.**

5 (a) If after inspection as provided in § 66306, it is found that the
6 proposed work has been completed in accordance with the requirements of
7 the building permit, the terms and conditions set by the Guam Land Use
8 Commission for use of the property, and the provisions of this Chapter,
9 together with the certification issued by the Director of the Department of
10 Revenue and Taxation that the property and all the improvements thereon
11 have been entered into the tax assessment rolls, the building official shall issue
12 a certificate of occupancy. The building official shall keep a permanent record
13 of all certificates of occupancy issued.

14 (b) If after inspection, as provided in § 66306, it is found that the
15 proposed work has not been completed in accordance with the building
16 permit, the terms and conditions set by the Guam Land Use Commission for
17 use of the property, or the provisions of this Chapter, the building official shall
18 refuse to issue a use permit and shall order the work completed to comply with
19 the building permit or this Chapter.

20 (c) The building official may issue a temporary use permit for any
21 portion or portions of the premises which may be safely occupied prior to the
22 issuance of a certificate of occupancy.”

23 **Section 10. Terms and Conditions of Approval by GLUC to be Enforced**
24 **During Construction or Other Work on Any Building.** § 66406(a) of Article 4,
25 Chapter 66, Title 21, Guam Code Annotated, is hereby *amended* to read:

26 “(a) Upon notice from the building official that work on any building
27 or structure is being prosecuted in violation of the provisions of this or other

1 applicable laws, or rules and regulations issued pursuant thereto, or in
2 violation of any of the terms and conditions imposed upon the issuance of a
3 zone change, variance, or conditional use permit approved by the Guam Land
4 Use Commission, or in an unsafe and dangerous manner, such work shall be
5 immediately stopped.”

6 **Section 11. Violation of Terms and Conditions of Approval by GLUC as**
7 **Grounds for Revocation of Building Permit.** § 66407 of Article 4, Chapter 66,
8 Title 21, Guam Code Annotated, is hereby *amended* to read:

9 **“§ 66407. Revocation of Permit.**

10 The building official shall revoke a permit or approval issued under the
11 provisions of this law:

12 (a) in any case of a false statement or misrepresentation as to
13 a material fact in any application or plans and specifications in which
14 the permit was issued, or approval given;

15 (b) in any case in which a permit was issued in error and
16 conditions are such that a permit should not have been issued;

17 (c) in any case where a building permit owner refuses to
18 comply with a stopwork order issued under the provisions of § 66406;
19 and

20 (d) in any case of noncompliance with any of the terms and
21 conditions of a zone change, variance, or conditional use permit by the
22 Guam Land Use Commission.”