

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) As amended by the Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts.	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, AND TO ADD A NEW ARTICLE 3 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES TO CAPTIVE INSURANCE COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS OUTSIDE OF GUAM.	5/17/22 4:35 p.m.	5/23/22	Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts	9/2/22 9:00 a.m.	10/18/22 9: 23 a.m. As amended by the Committee on Economic Development, Agriculture, Power and Energy Utilities, and the Arts.	Request: 5/23/22 6/3/22 Revised 10/21/22	
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	NOTES			
	12/2/22	AN ACT TO AMEND §§ 58104(k) AND 58136 OF ARTICLE 1, AND TO ADD A NEW ARTICLE 3 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES TO CAPTIVE INSURANCE COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS OUTSIDE OF GUAM.	12/16/22	12/16/22	12/28/22				



COPY

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
Thirty-Sixth Guam Legislature

December 16, 2022

The Honorable Lourdes A. Leon Guerrero
I Maga'hågan Guåhan
Ufisinan I Maga'håga
Hagåtña, Guam 96910

Dear *Maga'håga* Leon Guerrero:

Transmitted herewith are **Bill Nos. 291-36 (LS), 298-36 (LS), 299-36 (LS), 306-36 (COR), 312-36 (COR), 313-36 (COR), 314-36 (COR), 327-36 (COR), 332-36 (LS), 334-36 (COR), 346-36 (LS), 348-36 (LS), 351-36 (COR), 354-36 (COR), 355-36 (COR), 356-36 (COR), 357-36 (COR), 358-36 (COR), 360-36 (COR);** and **Substitute Bill No. 361-36 (COR)** which were passed by *I Mina'trentai Sais Na Liheslaturan Guåhan* on December 16, 2022.

Sincerely,

AMANDA L. SHELTON
Legislative Secretary

Enclosure (20)

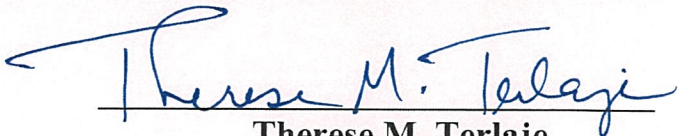
POS CC Chong 562
12/16/22 10:06 p.m.



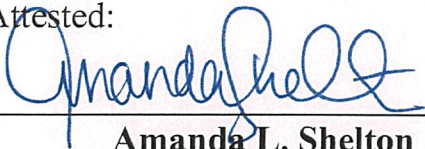
I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

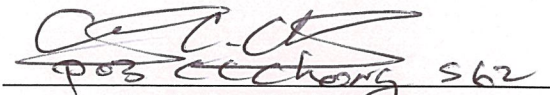
This is to certify that **Bill No. 306-36 (COR), "AN ACT TO AMEND §§ 58104(k) AND 58136 OF ARTICLE 1, AND TO ADD A NEW ARTICLE 3 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES TO CAPTIVE INSURANCE COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS OUTSIDE OF GUAM,"** was on the 16th day of December 2022, duly and regularly passed.


Therese M. Terlaje
Speaker

Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 16th day of Dec,
2022, at 10:06 o'clock P.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:

Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: _____

Public Law No. _____

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

Bill No. 306-36 (COR)

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

Introduced by:

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

AN ACT TO *AMEND* §§ 58104(k) AND 58136 OF ARTICLE 1, AND TO *ADD* A NEW ARTICLE 3 TO CHAPTER 58 OF TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES TO 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

1 Development Authority (GEDA) having great success in the promotion and
2 implementation of the program. *I Liheslaturan Guåhan* further finds that the
3 Twenty-third (23rd) Guam Legislature introduced and passed Public Law 23-109
4 which authorized the issuance of QCs to captive insurance and other domestic
5 insurance companies.

6 *I Liheslaturan Guåhan* notes that the establishment of a vibrant captive
7 insurance industry has the potential to attract not only millions of dollars to Guam,
8 but is also a means to foster the development of an expanded financial services
9 industry in Guam, which will elevate Guam's presence in the international financial
10 community. By allowing international captive insurance companies to domicile and
11 take advantage of the QC tax benefits in Guam, the government of Guam has the
12 potential to reap significant economic benefits.

13 Lastly, *I Liheslaturan Guåhan* further finds that Guam already has significant
14 regulatory framework to properly monitor and regulate the captive insurance
15 industry, as Guam has had a captive insurance law for over two (2) decades. Efforts
16 made by *I Liheslatura* to enhance the QC program with regards to captive insurance
17 companies who wholly underwrite insurance risks outside of Guam will increase the
18 viability and attractiveness of the program to international corporations looking to
19 establish a captive insurance company. Enhancing the ability for Guam to attract
20 new captive insurance companies has the potential to bring significant new
21 investment dollars into Guam.

22 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend §§ 58104(k) and
23 58136 of Article 1, and add a new Article 3 to Chapter 58 of Title 12, Guam Code
24 Annotated, to establish a distinct Special QC specifically for captive insurers.

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

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

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

8 **“§ 58136. Abatement of Tax.**

9 When the return for the abated tax is accompanied by a certificate of
10 compliance, then the actual payment of the tax in question to the government
11 of Guam shall not be required, and upon review of the tax return, the Tax
12 Commissioner of Guam shall, within one hundred twenty (120) days from
13 receipt of said tax return, furnish the taxpayer a certification confirming the
14 nature and amount of the tax abated.”

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

17 **“ARTICLE 3**

18 **SPECIAL QUALIFYING CERTIFICATE; CAPTIVE INSURANCE**
19 **COMPANIES WHO WHOLLY UNDERWRITE INSURANCE RISKS**
20 **OUTSIDE OF GUAM**

21 § 58301. Special Qualifying Certificate; Captive Insurance Companies
22 Who Wholly Underwrite Insurance Risks Outside of Guam
23 Established.

24 § 58302. Definitions.

25 § 58303. Special Qualifying Certificate for Captive Insurance Companies
26 Who Wholly Underwrite Insurance Risks Outside of Guam
27 Defined.

1 § 58304. Application and Compliance.

2 **§ 58301. Special Qualifying Certificate; Captive Insurance**
3 **Companies Who Wholly Underwrite Insurance Risks**
4 **Outside of Guam Established.**

5 There is hereby established a Special Qualifying Certificate (QC) for Captive
6 Insurance Companies who wholly underwrite insurance risks outside of Guam which
7 shall entitle the Beneficiary to tax rebates and tax abatements in return for meeting
8 the conditions and requirements prescribed by the Guam Economic Development
9 Authority (GEDA) in this Article, in the Qualifying Certificate, and in any other part
10 of this Chapter 58 deemed necessary and appropriate by GEDA. Any captive
11 insurance company that underwrites insurance risks in Guam is ineligible for the
12 Special Qualifying Certificate authorized in this Article, and must apply for a QC
13 pursuant to Article 1 of this Chapter.

14 **§ 58302. Definitions.**

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

16 (a) Authority: The Guam Economic Development Authority
17 (GEDA);

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

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

24 (d) Beneficiary: Entities issued a Special QC pursuant to this Article.

25 **§ 58303. Special Qualifying Certificate for Captive Insurance**
26 **Companies Who Wholly Underwrite Insurance Risks Outside of Guam**
27 **Defined.**

1 The Special Qualifying Certificate (QC) for Captive Insurance Companies
2 who wholly underwrite insurance risks outside of Guam is a contract valid for a
3 given period, executed by the Governor of Guam based upon the recommendation
4 of GEDA. Only duly formed captive insurance companies may become a
5 Beneficiary of this Special QC program. The QC, once issued and unless suspended,
6 rescinded or revoked, shall constitute conclusive evidence of entitlement to the tax
7 rebates and abatements set forth on its face.

8 (a) Captive Insurer Tax Rebate and Abatement. There shall be
9 allowed to each Beneficiary a tax rebate and abatement for the following
10 taxes:

11 (1) Corporate Income Tax:

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

18 (2) A Rebate on Dividends to Shareholders of Qualified
19 Insurance Underwriters:

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

25 (A) the insurance underwriting business paying the
26 dividends is the Beneficiary of a Qualifying Certificate;

1 (B) the dividends are paid from the insurance or
2 investment earnings of such business as identified in its
3 Qualifying Certificate, which dividends were received, on a cash
4 basis, during the original or an extended period of the Qualifying
5 Certificate; and

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

10 If the shareholder is a resident of Guam, then such
11 shareholder may be granted a Qualifying Certificate on dividends
12 pursuant to § 58130 of Article 1 of this Chapter.

13 (3) Business Privilege Tax (BPT):

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

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

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

25 (a) Applications for such Special QCs shall be on a form prescribed by
26 GEDA, with all necessary supporting documentation submitted and appropriate fees
27 first being duly paid prior to the acceptance of any application. GEDA shall use

1 applicable existing laws, rules, regulations, and standard operating procedures in its
2 dispensing and analysis of all applications under this Special QC program; however,
3 certain provisions of this Chapter 58 or successor laws shall not apply to any entity
4 applying for a Special Qualifying Certificate pursuant to this Chapter, specifically
5 §§ 58105.1, 58116, 58117, 58118, 58119, and 58124 of Article 1.

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

11 **Section 5. Effective Date.** This Act shall be effective upon enactment.

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