

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN  
2012 (SECOND) REGULAR SESSION

Bill No. 406-31(COR)

Introduced by:

R.J. RESPICIO  
*Remy J. Respicio*

AN ACT TO REPEAL AND REENACT SECTION 21  
OF CHAPTER XII, OF PUBLIC LAW 31-77  
RELATIVE TO PROVIDING FOR ASSIGNABILITY  
OF OFFSETS AGAINST BUSINESS PRIVILEGE  
TAXES FOR THE OUTSTANDING DEBT  
BALANCE OWED FOR THE COMPLETION OF  
THE GUAM PUBLIC MARKET REDEVELOPMENT  
PROJECT, PHASE II-DEPARTMENT OF  
COMMERCE PROJECT NO. 320-5-1008-L-AGN,  
INCLUDING CHANGE ORDER NO. 1 AND  
CHANGE ORDER NO. 2.

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2012 JUN 11 11:19 AM  
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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Section 21 of Chapter XII - "Miscellaneous Provisions" -  
3 of Public Law 31-77 is hereby *repealed* and *reenacted* to read:

4 "Section 21. Guam Public Market Redevelopment Project,  
5 Phase II.

6 (a) Authorization for Payment of Prior Year Obligation.

7 The sum of One Hundred Thirty-Six Thousand Fifty-Four Dollars  
8 and Thirty-Eight Cents (136,054.38) is hereby authorized to be  
9 expended by the Department of Public Works from its Base

1 Operational Appropriations in Section 1(k) of Chapter V of this Act,  
2 to satisfy the outstanding debt balance owed for the completion of  
3 the Guam Public Market Redevelopment Project, Phase II-  
4 Department of Commerce Project No. 320-5-1008-L-AGN, which was  
5 completed in 1995 in full accordance with all Project Contract  
6 requirements, including Change Orders #1 and #2.

7 The sum of Two Hundred Forty-Four Thousand Five Hundred  
8 Sixty Dollars and Ninety-Five Cents (\$244,560.95) is hereby  
9 authorized to be expended in the same manner to satisfy the interest  
10 owed on the outstanding debt balance owed for the completion of  
11 this Project.

12 **(b) Option to Offset Against Business Privilege Taxes for Past**  
13 **Due Billing.**

14 (1) Due to the failure of the government of Guam to  
15 satisfy this debt of over sixteen (16) years for the service  
16 described herein, the contractor *shall* be entitled to an offset  
17 equal to the value of unpaid billing for the service provided  
18 and the interest on the unpaid billing against the Business  
19 Privilege Taxes it owes for any given month.

20 (2) Any unused offset authorized by this section against

1 Business Privilege Taxes owed for any given month may be  
2 carried over into subsequent months until said offset is  
3 exhausted.

4 (3) The government *shall not* pay the contractor for  
5 services *if* an offset against Business Privilege Taxes has been  
6 exercised in the full amount of the debt owed to the contractor  
7 by the government of Guam.

8 (4) Assignment of Offsets. The contractor may assign any  
9 offsets authorized herein.

10 (5) Application of Offsets. The Director of Administration  
11 *shall* reduce the amount of the contractor's payables by the  
12 amount of any offset of Business Privilege Taxes. Any tax  
13 offsets exercised by the contractor *shall* be considered as the  
14 government of Guam satisfying its obligations for the amount  
15 of the offset.

16 (6) Coordination. To avoid double payment to the  
17 contractor, the Director of Revenue and Taxation *shall*  
18 immediately notify the directors of the Department of  
19 Administration and the Department of Public Works when an  
20 offset is exercised pursuant to this section."

1           **(c) Option to Claim Promissory Note.** Due to the failure of the  
2 government of Guam to satisfy this debt of over sixteen (16) years for  
3 the service described herein, the contractor *shall* be entitled to claim a  
4 promissory note for an offset equal to the value of the unpaid billing,  
5 and the interested on the unpaid billing, for the service provided.  
6 Such promissory note shall be issued pursuant to Title 5 Guam Code  
7 Annotated § 22415, “Promissory Note; Issuance to Creditors”  
8 Subsection (a), *except* that promissory notes issued to the contractor  
9 for the service provided herein (1) *shall* be transferable, and (2) *shall*  
10 *not* be subject to the timelines provided, and instead *shall be* issued  
11 within five (5) working days from the date of receipt of the filed  
12 claim.”

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