


MINA' TRENTAI TRES NA LIHESLATURAN GUAHAN
2015 (FIRST) Regular Session

Bill No. 34 -33 (COR)

Introduced by:

D.G. RODRIGUEZ, JR. 

**AN ACT TO AMEND SUBSECTIONS (a) AND (j)
OF §1512.3 OF ARTICLE 5, CHAPTER 1, TITLE 5,
GUAM CODE ANNOTATED, RELATIVE TO
AUTHORIZING THE REFUNDING OF
GOVERNMENT OF GUAM GENERAL
OBLIGATION BONDS, 2007 SERIES A**

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

2 **Section 1. Legislative Findings and Intent:** *I Liheslaturan Guåhan* finds
3 as follows: (a) that under current market conditions, the outstanding Government
4 of Guam General Obligation Bonds, 2007 Series A (the “2007 Bonds”), can be
5 refunded with Government of Guam Business Privilege Tax Bonds, with
6 significant savings for the General Fund, and (b) that the refunding is expected to
7 be accomplished with a decrease in the outstanding amount of “public
8 indebtedness” (as that term is defined in 48 USC § 1423a, §11 of the Organic Act
9 of Guam), because refunding the Business Privilege Tax Bonds are expected to be
10 issued in a principal amount less than currently outstanding 2007 Bonds being
11 refunded, which will no longer be outstanding.

12 It is the intent of *I Liheslaturan Guåhan* to decrease the public indebtedness
13 of the government of Guam by the refunding of the 2007 Bonds to assist in

1 facilitating financial sustainability and flexibility by taking advantage of present
2 favorable market conditions.

3 It is further the intent of *I Liheslaturan Guåhan* that there will be no
4 borrowing for new capital improvements with the refunding of the 2007 Bonds, but
5 rather the projected gross cash flow savings to be achieved from the refunding of
6 the 2007 Bonds (currently anticipated to be in excess of \$10 million) be allocated
7 for the provisions of healthcare services delivered through the Guam Medicaid and
8 Guam Cancer Assistance and Treatment programs administered by the Department
9 of Public Health and Social Services. The projected gross cash flow savings
10 currently anticipated to result from the refunding of the 2007 Bonds and the
11 additional Medicaid matching funds by the federal government is currently
12 anticipated to result in excess of \$20 million dollars over the life of the Bond.

13 **Section 2. Authorization of Refunding of General Obligation**
14 **Bonds, 2007 Series A.**

15 § 1512.3(a) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby
16 *amended* to read as follows:

17 "(a) **Authorization of Issuance of Bonds.** *I Maga'lahaen Guåhan* is
18 authorized to issue ~~three (3)~~ four (4) series of bonds of the government of
19 Guam as provided in this Section, in an aggregate principal amount *not to*
20 *exceed* Three Hundred Forty-Three Million Seven Hundred Thousand
21 Dollars (\$343,700,000) plus such principal amount as may be necessary for
22 the purposes of the refunding of Government of Guam General Obligation
23 Bonds, 1993 Series A, as provided in and subject to the conditions of
24 paragraph ~~(2)(B)(iv)~~ (3) of this subsection (a), and plus such principal
25 amount as may be necessary for the purposes of the refunding of
26 Government of Guam General Obligation Bonds, 2007 Series A, as provided

1 in and subject to the conditions of paragraph (4) of this subsection (a), to
2 provide the following:

3 (1) For the first bond series, in the following order of priority:

4 (A) up to One Hundred Ninety-Eight Million Dollars
5 (\$198,000,000) for payment of unpaid income tax refunds plus
6 interest to include for 2010 and prior;

7 (i) Set-aside for Tax Refunds for Humanitarian
8 Purposes. Of the total amount of proceeds available to
9 issue tax refund payments, the sum of Twenty Million
10 Dollars (\$20,000,000) *shall* be set aside and appropriated
11 to the Department of Revenue and Taxation for the
12 purpose of paying tax refunds for humanitarian purposes.
13 The provisions of this Section *shall* supplement other
14 guiding provisions of law regarding the processing of
15 emergency tax refund payments. Requests submitted for
16 the following humanitarian purposes *shall* qualify to be
17 processed from this Twenty Million Dollars
18 (\$20,000,000) set-aside:

19 (aa) off-island medical treatment, inclusive
20 of the need to purchase medication; or death of a
21 family member, within two (2) degrees of
22 consanguinity;

23 (bb) delinquent billing payments owed to the
24 Guam Power Authority, the Guam Waterworks
25 Authority, the Guam Housing and Urban Renewal
26 Authority, and the Judiciary of Guam, which have
27 become delinquent due to financial hardships;

1 (cc) delinquent loan payments owed to the
2 Guam Housing and Urban Renewal Authority,
3 which have become delinquent due to financial
4 hardships; and

5 (dd) delinquent loan payments owed to
6 legally qualified and licensed lenders, which have
7 become delinquent due to financial hardships. For
8 the purposes of this Section, a request for tax
9 refunds *shall* be submitted by the taxpayer to the
10 Director of Revenue and Taxation. All such
11 requests are subject to the review and approval of
12 the Director.

13 (ii) Twenty Million Dollars (\$20,000,000) for the
14 payment of cost of living allowance to certain retired
15 government of Guam employees pursuant to the case
16 known as *Rios v. Camacho*;

17 (iii) Twenty-Six Million Four Hundred Thousand
18 Dollars (\$26,400,000) for payments owed to the
19 Government of Guam Retirement Fund for the Guam
20 Department of Education and the Guam Memorial
21 Hospital Authority principal and interest pursuant to
22 Public Law 28-38, as amended by Public Law 31-74; and

23 (iv) if no alternate source of funding is available,
24 for the payment of health insurance premiums for Fiscal
25 Year 2012.

26 (2) For the second bond series:

1 (A) no less than Twenty-Five Million One Hundred
2 Thousand Dollars (\$25,100,000) for payments owed to the
3 Government of Guam Retirement Fund for the Guam
4 Department of Education, the Guam Memorial Hospital
5 Authority, and the *Health Insurance Bailout Agreement of*
6 *FY2011* principal and interest pursuant to Public Law 28-38, as
7 amended by Public Law 31-74, such that the sums owed to the
8 GGRF by the government of Guam pursuant to Public Law 28-
9 38, as amended, *shall* be extinguished in its entirety;

10 (B) the remaining balance of bond proceeds such that the
11 debt to the GGRF identified in §1512.3(a)(2)(A) of Article 5,
12 Chapter 1, Title 5, Guam Code Annotated is paid, *shall* be used,
13 in any amount, for any of the following:

14 (i) the design, construction, re-construction,
15 rehabilitation, maintenance, renovation of government of
16 Guam or Guam Department of Education-owned school
17 facilities, and/or procurement and preventive
18 maintenance of school buses. A "School Facility" *shall*
19 mean school campus facilities including any structure or
20 structures, together with all ancillary facilities, including
21 parking facilities, utilities, infrastructure and equipment
22 associated with providing the educational or related
23 services required by the Guam Department of Education
24 and may include an existing school facility being
25 rehabilitated; and/or

26 (ii) the payment of unpaid income tax refunds for
27 tax year 2011; and/or

1 (iii) if no alternate source of funding is available,
2 the payment of health insurance premiums for Fiscal
3 Year 2012;

4 (3) For the third bond series, to fund an escrow to pay principal,
5 interest and redemption price of Government of Guam General
6 Obligation Bonds, 1993 Series A and to pay expenses relating to the
7 authorization, sale and issuance of the bonds, including, without
8 limitation, printing costs, costs of reproducing documents, credit
9 enhancement fees, underwriting, legal, feasibility, financial advisory
10 and accounting fees and charges, fees paid to banks *or* other financial
11 institutions providing credit enhancement, costs of credit ratings and
12 other costs, charges and fees in connection with the issuance, sale and
13 delivery of the bonds; *provided, however,* that bonds may not be
14 issued for this purpose unless (a) all obligation of the government to
15 pay debt service on, and the redemption price of, the bonds being
16 refunded shall be discharged concurrently with the issuance of the
17 refunding bonds, (b) thereafter, the refunded bonds shall be payable
18 solely from and secured solely by the escrow established for such
19 purpose, (c) the present value of debt service on the refunding bonds
20 shall be at least two percent (2%) less than the present value of debt
21 service on the bonds being refunded, inclusive of all fees, for bond
22 counsel and bond underwriters and other costs of issuance, and (d) the
23 issuance of the refunding bonds shall not result in any increase in the
24 aggregate amount of the government's outstanding "public
25 indebtedness" as that term is used in 48 USC 1423a (§11 of the
26 Organic Act of Guam).

1 (4) For the fourth bond series, to fund an escrow to pay
2 principal, interest and redemption price of all or a portion of the
3 Government of Guam General Obligation Bonds, 2007 Series A, to
4 capitalize interest on the refunding Business Privilege Tax Bonds in
5 an amount to ensure the General Fund is made whole in the current
6 fiscal year due to timing of debt service requirements but in an
7 amount not to exceed 1% of refunding proceeds, and to pay expenses
8 relating to the authorization, sale and issuance of the bonds, including,
9 without limitation, printing costs, costs of reproducing documents,
10 credit enhancement fees, underwriting, legal, feasibility, financial
11 advisory and accounting fees and charges, fees paid to banks or other
12 financial institutions providing credit enhancement, costs of credit
13 ratings and other costs, charges and fees in connection with the
14 issuance, sale and delivery of the bonds; *provided, however,* that
15 bonds may not be issued for this purpose unless (a) all obligation of
16 the government to pay debt service on, and the redemption price of,
17 the bonds being refunded shall be discharged concurrently with the
18 issuance of the refunding bonds, (b) thereafter, the refunded bonds
19 shall be payable solely from and secured solely by the escrow
20 established for such purpose, and (c) the present value of debt service
21 on the refunding bonds shall be at least two percent (2%) less than the
22 present value of debt service on the bonds being refunded, inclusive of
23 all fees, for bond counsel and bond underwriters and other costs of
24 issuance.

25 (4) (5) For the first and second bond series, such amount as may
26 be needed to capitalize and pay from bond proceeds interest on the

1 bonds due, accruing or required to be set aside in Fiscal Years 2012
2 and 2013; and

3 ~~(5)~~ (6) expenses incurred in connection with the issuance of
4 such bonds *not* already included in an existing appropriation for or the
5 regular budget of any government agency or instrumentality or public
6 corporation providing any service in connection with the issuance of
7 such bonds; *provided, however*, that bonds may *not* be issued in an
8 amount that would cause a violation of the debt limitation provisions
9 of 48 USC 1423a (§11 of the Organic Act of Guam).

10 ~~—— (6) I Maga'lahañ Guåhan shall utilize the 2011 Real Property~~
11 ~~Tax Assessment Roll as certified by the Board of Equalization in~~
12 ~~accordance with § 24218 of Chapter 24, Title 11, Guam Code~~
13 ~~Annotated, in calculating the amount available for future debt~~
14 ~~obligation under the Debt Limit (Ceiling) for the bond issuance~~
15 ~~authorized in this §1512.3(a) of Article 5 of Chapter 1 of Title 5,~~
16 ~~Guam Code Annotated."~~

17 **Section 3. Terms and Conditions of Bonds.**

18 § 1512.3(b) of Article 5, Chapter 1, Title 5, Guam Code Annotated is hereby
19 *amended* to read as follows:

20 "(b) **Terms and Conditions Determined by Certificate *or* Indenture.** The
21 terms and conditions of the bonds shall be as approved by *I Liheslaturan Guåhan*,
22 and as determined by *I Maga'lahañ Guåhan* by the execution of a certificate *or*
23 indenture authorizing the issuance of the bonds, prior to the issuance of the bonds;
24 *provided, however*, that such terms and conditions shall be consistent with this
25 Section, that the first and second series of the bonds shall mature *not* later than
26 thirty-five (35) years after their date of issuance, shall bear interest at such rates
27 and be sold for such price *or* prices as shall result in a yield to the bondholders that

1 does *not* exceed six and one half percent (6.5%) per annum, shall require interest
2 only payments for Fiscal Years 2012, 2013 and 2014 and shall not require bond
3 principal payments until after such Fiscal Years, ~~and~~ that the third series of the
4 bonds shall mature *not* later than December 31, 2018, and shall bear interest at
5 such rates and be sold for such price *or* prices as shall result in the present value of
6 debt service on the third series of the bonds being at least two percent (2%) less
7 than the present value of debt service on the bonds being refunded, using the yield
8 on the third series of the bonds as the discount rate, and that the fourth series of the
9 bonds shall mature *not* later than November 15, 2037, shall not be used for fund
10 any new money projects and shall bear interest at such rates and be sold for such
11 price *or* prices as shall result in the present value of debt service on the fourth
12 series of the bonds being at least two percent (2%) less than the present value of
13 debt service on the bonds being refunded, using the yield on the fourth series of the
14 bonds as the discount rate.

15

16 **Section 4. Use of Anticipated Savings.**

17 A New sub item (i) is hereby added to § 1512.3(b) of Article 5, Chapter 1,
18 Title 5, Guam Code Annotated to read as follows:

19 “(i) **Use of Funds saved from Fourth Series.** The savings achieved by the
20 Government of Guam to the General Fund at or above the target referenced in §
21 1512.3(b) due to the refunding of the Government of Guam General Obligation
22 Bonds, 2007 Series A by the forth series of bonds, an amount equal to the resulting
23 reduction in debt service payments relating to the refunded Government of Guam
24 General Obligation Bonds, 2007 Series A, *shall*, to the extent practical, be
25 allocated and appropriated from the General Fund to the Guam Medicaid Program
26 of the Department of Public Health and Social Services (DPHSS) to be used as
27 local matching requirements with available and authorized federal matching

1 grants-in-aid; provided, however the expenditure of a portion of the allocation
2 pursuant to this Subsection (b)(i) is hereby authorized to be utilized to supplement
3 the Guam Cancer Assistance and Treat (GCAT) program pursuant to § 81113(b),
4 Chapter 81, Title 12, Guam Code Annotated, as determined by the Chief
5 Administrator of the Division of Public Welfare of the DPHSS. The Bureau of
6 Budget and Management Research (BBMR) shall be tasked to track and manage
7 the savings achieved by this fourth series refunding and allocate such savings
8 pursuant to § 1512.3(b)(i) and reflect the savings and allocation in the executive
9 branch submission of its budget request to *I Liheslaturan Guåhan* each fiscal year.
10 The funds allocated herein shall be in addition to the annual budget allocation and
11 budgeted appropriated levels provided to the Guam Medicaid Program.”

12

13 **Section 5. Authorization of Use of Proceeds for Refunding.**

14 A new subparagraph (4) is hereby added to § 1512.3(j) of Article 5, Chapter
15 1, Title 5, Guam Code Annotated, as follows:

16 "(4) The proceeds from the sale of the fourth bond series shall be used and
17 are hereby appropriated to (i) fund an escrow to pay principal, interest and
18 redemption price of Government of Guam General Obligation Bonds, 2007 Series
19 A; (ii) to capitalize interest on the refunding Business Privilege Tax Bonds in an
20 amount to ensure the General Fund is made whole in the current fiscal year due to
21 timing of debt service requirements but in an amount not to exceed 1% of
22 refunding proceeds, and (iii) pay expenses relating to the authorization, sale and
23 issuance of the bonds, including, without limitation, printing costs, costs of
24 reproducing documents, credit enhancement fees, underwriting, legal, feasibility,
25 financial advisory and accounting fees and charges, fees paid to banks or other
26 financial institutions providing credit enhancement, costs of credit ratings and

1 other costs, charges and fees in connection with the issuance, sale and delivery of
2 the bonds."

3 **Section 5. Severability.** If a provision of this act or its application to
4 any person or circumstance is held invalid, the invalidity does not affect other
5 provisions or applications of the act that can be given effect without the invalid
6 provision or application, and to this end the provisions of this act are severable.