

I Mina'Trentai Kuáttro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
36-34 (LS)	B .J.F. Cruz	AN ACT TO ADD A NEW § 1504.1 TO CHAPTER 1, TITLE 5 OF THE GUAM CODE ANNOTATED RELATIVE TO AUTHORIZING THE ISSUANCE OF LIMITED OBLIGATION HIGHWAY BONDS TO BE APPROPRIATED FOR CAPITAL IMPROVEMENT VILLAGE STREETS AND ROADS PROJECTS.	03/07/17 5:07 p.m.						

I MINA'TRENTAI KUATRO NA LIHESLATURAN GUÅHAN
2017 (FIRST) Regular Session

Bill No. *26-21 (LS)*

Introduced by: B. J. F. Cruz 

**AN ACT TO *ADD* A NEW § 1504.1 TO CHAPTER 1, TITLE 5 OF
THE GUAM CODE ANNOTATED RELATIVE TO
AUTHORIZING THE ISSUANCE OF LIMITED OBLIGATION
HIGHWAY BONDS TO BE APPROPRIATED FOR CAPITAL
IMPROVEMENT VILLAGE STREETS AND ROADS
PROJECTS**

2017 MAR -7 PM 5:08
FILE

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A *new* Section 1504.1 is hereby added to Chapter 1, Title 5 of the
Guam Code Annotated to read:

“1504.1. Limited Obligation Highway Bonds.

(a) Authorization of Issuance of Limited Obligation Highway Bonds.

I Liheslaturan Guåhan, pursuant to § 50103(k) of Article 1, Chapter 50 of Title
12, Guam Code Annotated, hereby authorizes *I Maga'låhen Guåhan* to issue
one or more series of tax-exempt and/or taxable Limited Obligation Highway
Bonds of the government of Guam, as provided in this Section, in an aggregate
principal amount *not to exceed* Fifty Million Dollars (\$50,000,000) for the
purposes of funding certain Capital Improvement Village Streets and Roads
Projects referenced in Subsection (e) of this Section, and paying expenses
relating to the authorization, sale and issuance of such new bonds, including
without limitation, printing costs, costs of reproducing documents, credit
enhancement fees, underwriting, legal, feasibility, financial advisory and
accounting fees and charges, fees paid to banks or other financial institutions

1 providing credit enhancement, costs of credit ratings and other costs, charges
2 and fees in connection with the issuance, sale and delivery of the bonds,

3 **(b) Terms and Conditions Determined by Indenture.** The terms and
4 conditions of the bonds shall be as determined by the *I Maga'låhen Guåhan* by
5 the execution of a certificate or indenture authorizing the issuance of the bonds,
6 prior to the issuance of the bonds; provided, however, that such terms and
7 conditions shall be consistent with this Section, that the bonds shall mature *not*
8 *later than* twenty-five (25) years after their date of issuance, and shall bear
9 interest at such rates and be sold for such price or prices as shall result in a yield
10 to the bondholders that does not exceed five percent (5%) per annum.

11 (c) All bonds authorized by this Section shall be secured by a statutory
12 lien on all or any part of the revenues from the taxes levied pursuant to Article
13 4 of Chapter 26 of Title 11 of the Guam Code Annotated, as amended, or any
14 successor provision, and from the license fees and penalties imposed pursuant
15 to §§ 7146, 7159, 7170, 7171, 7173, 3102, and 11101 of Title 16 of the Guam
16 Code Annotated, as amended, or any successor provision, collectively to be
17 referred as “highway revenues” for the purposes of this Section. This lien shall
18 arise automatically without the need for any action or authorization by *I*
19 *Maga'låhen Guåhan*, the government of Guam, or any other person or entity.
20 Such lien shall be valid and binding from the time such bonds are issued. The
21 highway revenues shall immediately be subject to such lien, and the lien shall
22 automatically attach to the highway revenues and be effective, binding, and
23 enforceable against *I Maga'låhen Guåhan*, the government of Guam, their
24 successors, assignees, and creditors, and all others asserting the rights therein,
25 irrespective of whether those parties have notice of the lien and without the need
26 for any physical delivery, recordation, filing, or further Act. Highway revenues
27 that are not required to make payments on the bonds shall automatically, and

1 without the need for any further action, be released from such lien and shall be
2 available for appropriation for any other lawful purpose of the government. The
3 statutory lien described in this Subsection shall not be subject to Division 9 of
4 Title 13 of the Guam Code Annotated, or any successor statute. The highway
5 revenues received by the government of Guam or by any trustee, depository or
6 custodian shall be deposited in accordance with the provisions of the applicable
7 indenture.

8 In addition to the statutory lien provided for above, all or any part of the
9 highway revenues may be pledged, if and to the extent determined by I
10 Maga'låhen Guåhan, to secure the payment of any bonds issued pursuant to
11 this Section. Any such pledge shall be valid and binding against all parties in
12 accordance with its terms from the time the pledge is made, and property so
13 pledged shall immediately be subject to the lien of the pledge without the need
14 for physical delivery, recordation, filing, or other further Act. The pledge shall
15 not be subject to Division 9 of Title 13 of the Guam Code Annotated, or any
16 successor statute. The indenture by which such pledge is created need not be
17 recorded. All highway revenues so pledged is hereby appropriated for the
18 purpose for which it has been pledged. Indebtedness issued by the government
19 pursuant to this Section and that is payable from highway revenues may not be
20 issued in an amount that would cause a violation of the debt limitation
21 provisions of Section 11 of the Organic Act.

22 **(d) Use of Proceeds from the Sale of the Bonds.** The proceeds from
23 such bonds shall be used and are hereby appropriated to finance the Capital
24 Improvement Village Streets and Roads Projects pursuant to Subsection (e) of
25 this Section and to pay expenses relating to the authorization, sale and issuance
26 of the bonds including, without limitation, printing costs, costs of reproducing
27 documents, credit enhancement fees, underwriting, legal, feasibility, financial

1 advisory and accounting fees and charges, fees paid to banks or other financial
2 institutions providing credit enhancement, costs of credit ratings and other
3 costs, charges and fees in connection with the issuance, sale and delivery of the
4 bonds.

5 **(e) Capital Improvement Village Streets and Roads Projects.** The
6 bond proceeds authorized in this Section shall be expended for Capital
7 Improvement Village Streets and Roads Projects to be determined as follows:

8 (i) The Mayors' Council of Guam (MCOG) shall determine streets
9 and/or roads to be prioritized in each respective village based on the
10 Guam Village Streets Master Plan or MCOG updated listings and provide
11 such a list of streets and/or roads to be prioritized to the Director of the
12 Department of Public Works. The MCOG shall ensure priority is given
13 to village streets and/or roads that either have not been surfaced or require
14 major resurfacing.

15 (ii) Upon receipt of the list provided pursuant to SubItem (i), the
16 Director of the Department of Public Works shall determine from the list
17 provided, which village streets and/or roads shall be selected to be
18 improved with the bond funds authorized in this Section.

19 (f) No bonds authorized by this Section shall be sold until the Board of
20 Directors of the Guam Economic Development Authority has approved the sale
21 by resolution.

22 **(g) Valid and Binding Obligation.** To the extent that the debt limitation
23 provisions of 48 U.S.C. § 1423a are not violated, any bonds authorized by this
24 Section shall constitute the valid and legally binding limited obligations of the
25 government of Guam payable solely from and secured by a pledge of the
26 revenues pledged pursuant to Subsection (c) of this Section. The validity of any
27 such bonds shall not be affected by the validity or regularity of any proceedings

1 for the implementation of Capital Improvement Village Streets and Roads
2 Projects funded by the new bonds or the bonds being refunded or by the
3 application of any escrow created to pay debt service on the bonds being
4 refunded.

5 **(h) Waiver of Immunity.** Notwithstanding any substantive or procedural
6 provision of Chapter 6 of Title 5 of the Guam Code Annotated the government
7 of Guam waives immunity from any suit or action in contract on the bonds, but
8 does not waive sovereign immunity as to the personal liability of elected
9 officials and employees of the government of Guam.

10 **(i) Form of Bonds; Covenants; Appointment of Fiduciaries.** The
11 technical form and language of the bonds, including provisions for execution,
12 exchange, transfer, registration, paying agency, lost or mutilated bonds,
13 negotiability, cancellation and other terms of conditions not inconsistent with
14 this Section, including covenants relating to the maintenance of revenues, shall
15 be as specified in the indenture approved by the Governor, authorizing the
16 issuance of the bonds. The indenture may appoint one or more trustees or other
17 fiduciaries authorized to receive and hold in trust the proceeds of the bonds and
18 revenues thereto, to protect the rights of bondholders and to perform such other
19 duties as may be specified in the indenture. The Governor is also authorized to
20 execute, on behalf of the government of Guam, any appropriate agreements,
21 certificates or other instruments relating to the bonds, the sale of the bonds and
22 payment of the bonds being refunded.

23 **(j) Authorization for Credit Enhancement.** The Governor is authorized
24 to enter into such contracts or agreements with such banks, insurance
25 companies or other financial institutions as he determines are necessary or
26 desirable to improve the security and marketability of the bonds issued under
27 this Section. Such contracts or agreements may contain an obligation to

1 reimburse, with interest, any such banks, insurance companies or other financial
2 institutions for advances used to pay principal or interest on the bonds. Any
3 such reimbursement obligation shall be payable solely from, and may be
4 secured by a pledge of, the revenues described in Subsection (c) of this Section.

5 **(k) No Personal Liability except for failure to perform ministerial**
6 **duty.** No employee or elected official of the government of Guam shall be
7 individually liable for the payment of any amounts due on any bonds issued
8 under this Section, or for any other liability arising in connection with the
9 bonds; provided, however, that nothing in this Section shall relieve any
10 employee or elected official from the performance of any ministerial duty
11 required by law.”

12 **Section 2. Severability.** *If any provision of this Act or its application to any*
13 *person or circumstance is held invalid, the invalidity shall not affect other provisions*
14 *or applications of this Act which can be given effect without the invalid provision or*
15 *application and to this end the provisions of this Act is severable.*