

I Mina'trentai Singko 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
204-35 (COR)	Joe S. San Agustin	AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 77, DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO AUTHORIZING THE ISSUANCE OF TAX CREDITS FOR CONTRIBUTORS TO THE RENOVATION, IMPROVEMENT AND PARTICIPATION OF THE GUAM BASKETBALL CONFEDERATION TO THE FIBA ASIA CUP.	9/10/19 1:20 p.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 204 -35 (COR)

Introduced by:

Joe S. San Agustin 

**AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 77,
DIVISION 2, TITLE 12, GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING THE ISSUANCE OF
TAX CREDITS FOR CONTRIBUTORS TO THE
RENOVATION, IMPROVEMENT AND
PARTICIPATION OF THE GUAM BASKETBALL
CONFEDERATION TO THE FIBA ASIA CUP.**

2019 SEP 10 PM 1:20 

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the Guam Basketball Confederation is responsible for governing and developing
4 the sport of basketball in Guam, including the Guam National Basketball program,
5 from youth ages to National Teams.

6 *I Liheslaturan Guåhan* further finds that the Guam National Men's Basketball
7 Team is the 2-Time Gold Medal winners from The 2015 & 2019 Pacific Games,
8 along with being named The Most Outstanding Team by The Pacific Games Counsel
9 both times. The Guam National Men's Basketball Team has recorded 24 straight
10 wins in FIBA competitions from 2015 to 2019, including The Pacific Games,
11 Micronesia Games, and FIBA Asia Cup Pre-Qualifiers. Guam's Men's National
12 Team ranks #76 in FIBA World Rankings and #14 in Asia, the highest ranking in
13 the island's history.

14 *I Liheslaturan Guåhan* further finds that Guam's Men's Basketball Team has
15 attained another opportunity to compete in The FIBA Asia Cup Qualifiers slated to

1 take place during 3 windows of competition in February 2020, November 2020, and
2 February 2021. Guam has the opportunity to host 3 home games against Hong Kong,
3 New Zealand, and Australia. These games will expose Guam’s beauty and her
4 people to international media, whereby millions of international viewers will learn
5 about Guam. .

6 *I Liheslaturan Guåhan* further finds that in order to represent Guam
7 effectively, Guam must be prepared to host the games with an approved FIBA
8 facility, including required equipment, furnishings, supplies and other logistical
9 supports to ensure the success of the games, as well as support the preparation of our
10 Men’s National Team to compete at the highest level of international basketball
11 competition. Unfortunately, FIBA officials have determined that the University of
12 Guam Calvo Fieldhouse is the only facility with the approved capacity in Guam and
13 requires significant enhancement and equipment investment to be able to host the
14 events. These include: improved lighting in Main Court area; locker room and
15 medical room enhancements; new FIBA approved basketball goals with shot clocks;
16 operating software and hardware for game operations; FIBA Level 1 approved court;
17 and other requirements.

18 It is the intent of *I Liheslaturan Guåhan* to support Guam’s Men’s National
19 Basketball Team and the Guam Basketball Confederation of the quest to participate
20 in the FIBA Asia Cup by authorizing Tax Credits for the preparation and execution
21 of the games on Guam and their participation internationally.

22 **Section 2.** A new Article 9 is hereby *added* to Chapter 77, Division 2, Title
23 12, Guam Code Annotated, to read:

24 **“ARTICLE 9**

25 **TAX CREDITS FOR GUAM’S PARTICIPATION IN THE FIBA ASIA CUP**

26 § 77901. Credit Against Eligible Taxes.

27 § 77902. Limits of Liability.

1 § 77903. Fines and Penalties.

2 § 77904. Cap on Business Privilege Tax Credits for the
3 Rehabilitation, Improvement, and participation of the
4 Guam Basketball Confederation to the FIBA Asia Cup.

5 § 77905. Filing of Annual Reports.

6 § 77906. GEDA Report.

7 § 77907. Rules and Regulations.

8 **§ 77901. Credit Against Eligible Taxes.**

9 (a) To the extent that any business contributes to The Guam
10 Basketball Confederation (GBC) to acquire the required equipment and
11 make enhancements to facilities in Guam, as well as the training and
12 transportation of The Guam Men's National Team for FIBA Asia
13 Competition from 2019 to 2021, it *shall* be entitled to credit of business
14 privilege taxes that are *not* already pledged for any purpose by Guam
15 law. The basis for contribution to the project *shall* be the actual cost of
16 the contribution plus the cost of transportation from the point of origin
17 to its destination.

18 (b) Any unused credits *not* used in the current tax period may
19 be carried over into subsequent tax periods until such credits are
20 exhausted.

21 (c) The total credits allowed under this Act *shall not* exceed
22 the actual dollar amount of the expenditures on the project.

23 **§ 77902. Limits of Liability.**

24 Unless a contractor, materials supplier, designer or
25 landlord/lessor has direct involvement in the operations of the facilities
26 as a director, officer, manager, employee, representative or agent of the
27 Guam Basketball Confederation, they *shall not* be held liable for any

1 civil or criminal damages or penalties directly or indirectly arising from
2 or related to the operations, any use, or possession of the gymnasium
3 and facilities, *unless* it can be proven that the materials or design work
4 provided were substandard. As the University of Guam Calvo Field
5 house and facilities is a private venture operated by the University of
6 Guam and for use by the Guam Basketball Confederation, the
7 government of Guam *shall not* be liable for any claims or damages
8 arising from the operation of the gymnasium and facilities. The Guam
9 Basketball Confederation, its directors, agents, consultants, employees,
10 or other affiliated person or persons shall make no representation that
11 the government of Guam has any interest in the operation of such
12 gymnasium and facilities.

13 **§ 77903. Fines and Penalties.**

14 To the extent that a company providing materials and services
15 for the project contained herein takes more tax benefits in terms of
16 business privilege taxes than the actual value of the materials or
17 services contributed to the project authorized herein, that company
18 *shall* be required to pay all interest and penalties applicable under Guam
19 law and the Internal Revenue Code for failure to pay taxes, in addition
20 to payment of the actual taxes due. To the extent that any individual,
21 officer, director or other person having interest in a company providing
22 materials or services for the project contained herein knowingly and
23 willingly causes such company to take more tax benefits in terms of
24 business privilege taxes than the actual value of the material or services
25 contributed to the project, such individual *shall* be guilty of a felony in
26 the third degree punishable by a fine of *not less than* Five Thousand
27 Dollars (\$5,000), or one (1) year in prison, or both.

1 **§ 77904. Cap on Business Privilege Tax Credits for the**
2 **Rehabilitation, Improvement, and participation of the Guam Basketball**
3 **Confederation to the FIBA Asia Cup.**

4 (a) The total amount of credits against unpledged business
5 privilege taxes for the GBC's preparation of facilities and participation
6 in The FIBA Asia competition authorized herein *shall not* exceed Four
7 Hundred Thousand Dollars (\$400,000.00) over a two (2) year period.
8 No more than Two-Hundred Thousand Dollars (\$200,000) in tax
9 credits shall be authorized for each year of the program.

10 (b) If, at the expiration of the two (2) year period authorized
11 pursuant to this Article, there are still unclaimed authorized tax credits,
12 *I Liheslaturan Guåhan* may, in its discretion, extend the eligible period
13 until such time that all eligible tax credits are exhausted.

14 (c) *I Liheslaturan Guåhan* may, in its discretion, extend the
15 term and modify any part of the program based on future opportunities
16 to host & participate in international competitions and promote Team
17 Guam.

18 (d) The Guam Basketball Confederation (GBC) must create a
19 memorandum of understanding with The University of Guam in order
20 to detail the enhancement and use of The UOG Calvo Field House
21 (UOG CFH) for sports competition organized by GBC, to include
22 Operational Plans for Equipment being acquired by GBC for use at The
23 UOG CFH.

24 (e) Equipment, Labor, Materials, Construction, Transportation,
25 Accomodations and Professional Services *shall* be competitively
26 procured.

27 **§ 77905. Filing of Annual Reports.**

1 (a) The Guam Basketball Confederation *shall* annually
2 submit a copy of the financial statement required in § 14102, Chapter
3 14 of Title 18 GCA to the Speaker of *I Liheslaturan Guåhan*, the Public
4 Auditor, and the Administrator of GEDA.

5 (b) The Guam Basketball Confederation must ensure that it is
6 current with all its articles and by-laws, and should there be any
7 amendments to such documents, it should immediately file such
8 amendments to the Department of Revenue and Taxation.

9 **§ 77906. GEDA Report.**

10 GEDA *shall* submit a report to *I Liheslaturan Guåhan* detailing
11 the impact of the program on the business privilege taxes, sports, and
12 economic activities on Guam. GEDA *shall* also include in its report its
13 monitoring efforts and any other information related to the program.
14 The report shall be transmitted to *I Liheslaturan Guåhan* on an annual
15 basis until the tax credit cap pursuant to §77604 of this Article is
16 exhausted.

17 **§ 77907. Rules and Regulations.**

18 The Guam Economic Development Authority *shall* implement
19 and monitor the tax credit program authorized pursuant to this Article
20 based on rules and regulations already adopted by GEDA for previous
21 tax credit programs.

22 **Section 3. Effective Date.** This Act *shall* be effective upon enactment.

23 **Section 4. Severability.** *If* any provision of this Law or its application to
24 any person or circumstance is found to be invalid or contrary to law, such invalidity
25 *shall not* affect other provisions or applications of this Law which can be given effect
26 without the invalid provisions or application, and to this end the provisions of this
27 Law are severable.