

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
129-35 (COR)	William M. Castro	THE HAFOT REPATRIATION ACT OF 2019, AN ACT TO ADD A NEW ARTICLE 9 TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED RELATIVE TO THE ELIGIBILITY FOR THE TAX CREDIT PROGRAM TO BUSINESSES OR INDIVIDUALS AND TO ADD A NEW § 28106(i) TO ARTICLE 1, CHAPTER 28, TITLE 11, GUAM CODE ANNOTATED; USE TAX LAW, RELATIVE TO EXEMPTING PRODUCTS AND SERVICES RELATED TO THE SUPPORT OF FAMILIES WHOSE LOVED ONES PASS AWAY OFF-ISLAND AND WHO REQUIRE ASSISTANCE TO REPATRIATE THE DECEASED BACK TO GUAM FOR BURIAL.	5/3/19 2:43 p.m.						

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

Bill No. 129-35 (COR)

Introduced by:

William M. Castro 

THE HAFOT REPATRIATION ACT OF 2019, AN ACT TO *ADD* A NEW ARTICLE 9 TO CHAPTER 77, TITLE 12, GUAM CODE ANNOTATED RELATIVE TO THE ELIGIBILITY FOR THE TAX CREDIT PROGRAM TO BUSINESSES OR INDIVIDUALS AND TO *ADD* A NEW § 28106(i) TO ARTICLE 1, CHAPTER 28, TITLE 11, GUAM CODE ANNOTATED; USE TAX LAW, RELATIVE TO EXEMPTING PRODUCTS AND SERVICES RELATED TO THE SUPPORT OF FAMILIES WHOSE LOVED ONES PASS AWAY OFF-ISLAND AND WHO REQUIRE ASSISTANCE TO REPATRIATE THE DECEASED BACK TO GUAM FOR BURIAL.

2019 MAY -3 PM 2:43 

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan*
3 finds the death of loved ones is difficult to deal with in any situation. However,
4 when a family member passes away off-island and the family is not able to
5 transport them back home for burial it creates distress for the living relatives of
6 the deceased. Guam does not have a program that supports families of those who
7 pass away off-island to help defray the costs with bringing deceased family
8 members back home to Guam.

9 *I Liheslaturan Guåhan* further finds that other jurisdiction programs have
10 one or more that assists families of deceased loved ones to bring them home for
11 burial if they pass away off-island. Such programs are funded by their respective

1 governments through networking with agencies and other community agencies
2 using resources available in the jurisdiction that the person is from.

3 *I Liheslaturan Guåhan* further finds that a program currently does not exist
4 on Guam to help families who are financially unable to bring their loved ones
5 from off-island to be buried. Therefore, it is the intent of *I Liheslaturan Guåhan*
6 that the “HAFOT ACT” (*ta Hasso yan Ayuda I Familia ya ta Onra I Taotåo-ta*)
7 which means to remember and help the families and to honor our people, allows
8 the Government of Guam, organizations, companies or persons to assist families
9 with bringing their loved ones who pass away off-island home. To fund this bill
10 I am proposing a Tax Credit based program that allows organizations to help
11 families repatriate their loved one’s home.

12 *I Liheslaturan Guåhan* further finds that the repatriation of remains back to
13 Guam for burial provides for families and friends to comfort each other during the
14 funeral activities. The Guam economy and residents further benefit from the
15 increased activity of a funeral on island through the sale of products and services
16 associated with mortuaries, caterers, restaurants, and grocery stores.

17 **Section 2. Qualifications.**

18 (a) Resident of Guam. Proof of residency on Guam for no less than one
19 (1) year must be provided for either the deceased or the individual petitioning for
20 the return of the remains of a family member.

21 (b) Relationship. Must be a spouse, child, sibling, parent, grandparent
22 or grandchild in relation to the deceased, caretaker, friend or responsible party.

23 **Section 3. Process.**

24 1. A qualified applicant for the HAFOT program must attain the form
25 and provide financial records.

1 **§ 77902. Credits Against Unpledged Business Privilege Tax.**

2 (a) A business, to the extent that such business contributes to the
3 HAFOT Act, as identified and approved by GEDA, shall be entitled to a
4 credit of unpledged business privilege taxes. The basis for contribution to
5 the repatriation shall be the actual cost of the contribution plus the cost of
6 transportation from the point of origin to Guam.

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

9 The total credits allowed under this Act shall not exceed Ten Thousand
10 Dollars (\$10,000) per repatriated remains.

11 **77903. Cap on Business Privilege Tax Credits**

12 (a) The total amount of credits against unpledged business
13 privilege taxes for the authorized herein shall not exceed One Million Five
14 Hundred Thousand Dollars (\$1,500,000) over a five (5) year period. No
15 more than Three Hundred Thousand Dollars (\$300,000) in tax credits per
16 year shall be authorized.

17 (b) If, at the expiration of the five (5) year period authorized
18 pursuant to this Article, there are still unclaimed authorized tax credits,
19 GEDA may, in its discretion, extend the eligible period until such time that
20 all eligible tax credits are exhausted or renew Sixty (60) days prior to the
21 five (5) year expiration.

22 (c) I Liheslaturan Guåhan may, in its discretion, extend the term
23 and modify any part of the program based on future improvement plans and
24 demand in this location.

25 **§ 77906. GEDA Report.**

1 GEDA shall submit a report to I Liheslaturan Guåhan detailing the
2 impact of the program on the business privilege taxes, use excise taxes, and
3 economic activities on Guam. GEDA shall also include in its report its
4 monitoring efforts and any other information related to the program. The
5 report shall be transmitted to I Liheslaturan Guåhan on an annual basis
6 until the tax credit caps pursuant to § 77903 and 77905 of this Article are
7 exhausted.

8 **§ 77907. Rules and Regulations.**

9 The GEDA shall implement and monitor the tax credit program
10 authorized pursuant to this Article based on rules and regulations already
11 adopted by GEDA for previous tax credit programs.

12 **§ 77908. Approval of Contributions.**

13 GEDA or its designee shall be responsible for approving the
14 contributions made towards the project as identified in this Article.

15 **§77909. Fines and Penalties.**

16 (a) To the extent that a company providing materials and
17 services for the project contained herein takes more tax benefits in terms of
18 unpledged business privilege taxes or use excise taxes than the actual value
19 of the materials or services contributed to the project authorized herein, that
20 company shall be required to pay all interest and penalties applicable under
21 Guam law and the Internal Revenue Code for failure to pay taxes, in
22 addition to payment of the actual taxes due.

23 (b) To the extent that any individual, officer, director, or other
24 person having interest in a company providing materials or services for the
25 project contained herein knowingly and willingly causes such company to

1 take more tax benefits in terms of business privilege taxes than the actual
2 value of the material or services contributed to the project, such individual
3 shall be guilty of a felony in the third degree punishable by a fine of not
4 less than Five Thousand Dollars (\$5,000) or one (1) year in prison or both.”

5 **Section 5.** A new § 28106(i) is *added* to Article 1, Chapter 28, Title 11,
6 Guam Code Annotated; to read as follows:

7 “(i) Products and services for repatriation of human remains back
8 to Guam for final disposition.”

9 **Section 6. Severability.**

10 If any provision of this Law or its application to any person or circumstance
11 is found to be invalid or contrary to law, such invalidity shall not affect other
12 provisions or applications, and to this end the provisions of the law are severable.

13 **Section 7. Effective Date.**

14 This act shall be effective upon date of enactment.