

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
401-35 (COR)	Clynton E. Ridgell	AN ACT TO AMEND §§ 58104, 58147.1, 58147.2, AND 58147.3(f) ALL OF ARTICLE 1, CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES FOR CIRCULAR ECONOMY AND ENVIRONMENTAL SUSTAINABILITY ACTIVITIES.	9/18/20 11:02 a.m.						

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2020 (SECOND) Regular Session

Bill No. 401-35 (COR)

Introduced by:

Clynton E. Ridgell 

AN ACT TO AMEND §§ 58104, 58147.1, 58147.2, AND 58147.3(f) ALL OF ARTICLE 1, CHAPTER 58, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF QUALIFYING CERTIFICATES FOR CIRCULAR ECONOMY AND ENVIRONMENTAL SUSTAINABILITY ACTIVITIES.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that for close to twenty (20) years, the government of Guam has offered tax
4 incentives, via the Qualifying Certificate (QC) Program, to investors who open and
5 operate a recycling company in Guam. Current law allows for recycling companies
6 to avail of one hundred percent (100%) in corporate income, business privilege tax,
7 and use tax benefits on all portions of a business derived from recycling or the
8 shipping of recyclable material in Guam.

9 *I Liheslaturan Guåhan* further finds that the promotion of recycling activities
10 is of paramount importance to Guam, especially in light of current environmental
11 and economic conditions. This is further compounded by many recent reports that
12 countries were once receptive towards accepting recyclables from Guam and other
13 countries have started limiting or outright banning their acceptance. As such, it is
14 prudent for the government of Guam to encourage the development of local

1 enterprise that will invest in activities and services that will reduce the amount of
2 material(s) entering in to Guam’s waste stream.

3 *I Liheslaturan Guåhan* further finds that although this tax benefit program has
4 been in existence for close to two decades, it has had little to no impact on the
5 recycling industry. This is due to the narrow focus of the program on large-scale
6 recycling and transshipment activities. Adjustments must be made to include a
7 broader spectrum of commercial activities that promote circular economy systems
8 and commercial activities that foster the recycling, reuse, and remanufacturing of
9 recyclable materials in Guam that would otherwise enter into the waste stream.

10 Therefore, it is the intent of *I Liheslaturan Guåhan* to amend §§ 58104, 58147,
11 58147.1, 58147.2, and 58147.3 of Article 1, Chapter 58, Title 12, Guam Code
12 Annotated, relative to expanding opportunities for companies that engage in circular
13 economy and environmental sustainability activities, including traditional recycling
14 and the transshipment of recyclable materials out of Guam, along with specific
15 requirements for beneficiaries of Qualifying Certificates to be authorized by this Act.

16 **Section 2.** A new § 58104(r) of Article 1, Chapter 58, Title 12, Guam Code
17 Annotated, is *added* to read:

18 “(r) circular economy commercial activities that promote
19 environmental sustainability, recycling, remanufacturing and refurbishment
20 of recyclable materials and other activities that achieve the goal of reducing
21 the creation of waste or promoting the continual use and reuse of resources in
22 Guam. This shall include activities of duly licensed and permitted recycling
23 companies as well as companies engaged in the transshipment of recyclable
24 materials to a recycling center outside of Guam that comply with all applicable
25 requirements contained in this Article.”

26 **Section 3.** §§ 58147, 58147.1, and 58147.2 of Article 1, Chapter 58, Title
27 12, Guam Code Annotated, are *amended* to read:

1 “§ 58147. ~~Business Privilege and Use Tax Exemptions.~~
2 Development of Circular Economy and Environmental Sustainability
3 Activities.

4 ~~(a) In order to promote a circular economy in Guam, as well as to~~
5 ~~encourage the reduction of waste and the expansion of recycling,~~
6 ~~remanufacturing, and the refurbishment of recyclable materials in Guam, the~~
7 ~~Board of Directors of the The Guam Economic Development Authority shall~~
8 ~~adopt reasonable rules and regulations in accordance with the Administrative~~
9 ~~Adjudication Law for the granting of~~ is authorized to recommend the issuance
10 of Qualifying Certificates for activities that foster circular economy
11 commercial activities that promote environmental sustainability, recycling,
12 remanufacturing, and refurbishment and other activities that achieve the goal
13 of reducing the creation of waste or promoting the continual use and reuse of
14 resources in Guam. This shall include activities of duly licensed and permitted
15 recycling companies as well as companies engaged in the transshipment of
16 recyclable materials to a recycling center outside of Guam. Applications for
17 Qualifying Certificates authorized, pursuant to this Section shall utilize the
18 same process as other Certificates issued. ~~in order to ensure that Certificates~~
19 ~~are issued only with respect to the revenues generated from recycling~~
20 ~~materials identified by the recycling and transshipment companies,~~
21 ~~respectively.~~ Additionally, GEDA shall require that the Beneficiary of a
22 Certificate comply with the same requirements of a Beneficiary of a QC as set
23 out in 12 GCA §§ 58116 through 58119 and any other applicable Section of
24 this Article.

25 ~~(b) Use Tax. The owner of a recycling or shipping business, the~~
26 ~~proceeds from which have been exempted under this Section from the tax~~
27 ~~imposed under Article 2 of the Business Privilege Tax Law, shall be exempt~~

1 from the Guam Use Tax Law, with respect to the revenues generated to
2 recycle and/or transship recyclable materials.

3 **§ 58147.1. Corporate Income Tax Rebate. Tax Benefits Authorized.**

4 There shall be allowed to each beneficiary issued a Qualifying
5 Certificate, pursuant to § 58147, a tax rebate, abatement, and exemption for
6 the following taxes:

7 (a) One hundred percent (100%) Corporate Income Tax rebate for a
8 period not to exceed ten (10) years; on the proceeds from revenues generated
9 for recycling, or for the transshipment of recycling materials off Island to be
10 disposed of at a recycling center, shall be exempt from the tax imposed under
11 Article 2 of the Business Privilege Tax Law; provided that:

12 (b) One hundred percent (100%) Business Privilege Tax abatement for
13 a period not to exceed ten (10) years; and

14 (c) One hundred percent (100%) Use Tax exemption for a period not to
15 exceed ten (10) years.

16 (d) The aforementioned tax benefits shall be subject to the following:

17 (1) the revenues generated from recycling all eligible activities
18 are certified by a Certified Public Accountant; and

19 (2) if transshipment of recyclable materials occurs, the shipping
20 company shows proof that the transshipment of recycling materials are
21 recyclable, as defined in §2(e) of this Act § 58147.3. Such rebate shall
22 not exceed a consecutive period of ten (10) years from the effective date
23 of the QC.

24 (3) In order to qualify for the tax rebate, abatement and
25 exemption, a person(s), developer, contractor, company or corporation
26 must beneficiary shall commit to divert from the waste stream a
27 minimum of two thousand (2,000) cubic feet or forty thousand (40,000)

1 ~~pounds~~ amount of recyclable materials per year, as determined
2 reasonable and achievable according to the business activity and the
3 requirements of the Authority. All beneficiaries, in addition to the
4 standard compliance requirements, shall submit to GEDA an annual
5 report detailing the amount of material diverted from the waste stream
6 during the course of business activities.

7 ~~(b)-(e)~~ Interest Earned from Rebate. All interest earned by the
8 government of Guam from the income tax rebates ~~rebated amount for~~
9 ~~recycling, or for the transshipment of recyclable materials,~~ authorized,
10 pursuant to §§ 58147 and 58147.1 shall be allocated to the Guam
11 Environmental Protection Agency (“GEPA”) to assist in the administrative
12 cost for the implementation of this Act.

13 **§ 58147.2. Waiver of Docking and Stevedoring Fees.**

14 A waiver of docking and stevedoring fees may be granted in accordance
15 with the uniform schedule setting forth criteria for fee waiver adopted by the
16 Port Authority of Guam to shipping companies in the transshipment of
17 recyclable materials for a consecutive period not to exceed ten (10) years from
18 the effective date of the QC, provided, that:

19 (a) the shipping companies engaged in the transshipment of recyclable
20 materials are the holders of a permit issued by GEPA;

21 (b) a CPA certifies the characteristics of recyclable materials, as listed
22 in ~~Section 2 (e) of Public Law 25-127~~ § 58147.3 and identifies the volume.

23 Notwithstanding anything herein to the contrary, the Port Authority of
24 Guam shall not be required to provide free stevedoring services to shipping
25 companies. Any shipping company, however, may provide for stevedoring
26 services at the Port Authority at its cost and expense.

1 **Section 4.** § 58147.3(f) of Article 1, Chapter 58, Title 12, Guam Code
2 Annotated, is *amended* to read

3 “(f) “Recyclable materials” means materials which still have useful
4 physical or chemical properties after serving a specific purpose for the same
5 or other purpose. Recyclable materials are as follows:

6 (1) batteries;

7 (2) cars and trucks;

8 (3) construction and demolition debris (“C&D”);

9 (4) enameled white goods (i.e. refrigerators, water heaters, air
10 conditioners, washers, dryers, stoves);

11 (5) foam padding;

12 (6) glass and plastic bottles;

13 (7) home appliances (other appliances that are not considered
14 enameled white goods);

15 (8) lead;

16 (9) metals (ferrous/non-ferrous);

17 (10) organic material (i.e. tree trimmings, palm fronds, grass,
18 food waste, soiled cardboard)

19 (11) paper products;

20 (12) tires (passenger/commercial);

21 (13) wood pallets and scrap wood; and

22 (14) x-ray film

23 (15) used oil; and

24 any other material(s) determined to be recyclable by the Guam Environmental
25 Protection Agency or any other law, rule, or regulation.

26 **Section 5. Effective Date.** This act shall be effective thirty (30) days
27 following enactment.

1 **Section 6. Severability.** If any provision of this Act or its application to any
2 person or circumstance is found to be invalid or contrary to law, such invalidity *shall*
3 *not* affect other provisions or applications of this Act that can be given effect without
4 the invalid provision or application, and to this end the provisions of this Act are
5 severable.