

I MINA 'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 234-30 (COR)

Introduced By:

T.R. MUÑA-BARNES
E.J.B. CALVO

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AN ACT TO TRANSFER SEVEN MILLION DOLLARS (\$7,000,000) HELD BY THE GUAM HOUSING CORPORATION TO THE GENERAL FUND TO FUND THE APPROPRIATION TO THE DEPARTMENT OF REVENUE AND TAXATION FOR THE PURPOSE OF STRENGTHENING ITS COLLECTION AND COMPLIANCE FUNCTIONS.

BE IT ENACTED BY PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*

Finds that the Department of Revenue and Taxation (DRT) is charged with enforcing the tax laws of Guam and the collection of revenues. The government of Guam's FY2009 annual General Fund budget amounted to \$520,721,797. Approximately 90% of this budget is derived from tax collections. The Department of Revenue and Taxation is the government agency tasked with ensuring that these taxes are assessed and collected. The enactment of P.L. 30-55, also known as the "General Appropriations Act of 2010" estimated \$545,301,145 available in appropriations for government operations. An estimated revenue projection of \$605,694,837 is expected to be derived from Income and Business

1 Privilege taxes. For many years, the Director of Revenue and Taxation has
2 advised legislative and executive branch leaders that millions of overdue taxes are
3 not being pursued due to the lack of manpower and adequate resources. As recent
4 as the fiscal year 2010 budget hearings, the Rev and Tax director testified that an
5 additional \$7,000,000 is needed to fully fund the department. A November 2008
6 report released by the US Department of Interior's Inspector General, identifies
7 serious problems with our island's Department of Revenue and Taxation. The
8 report estimated that at least \$23 Million Dollars are lost each year in revenues
9 due to the department's lack of resources and employees. The report notes that
10 there are approximately over 6,000 collection active cases within the department
11 and that only 24 revenue officers are handling the load. This equates to about 200
12 cases per revenue officer. The report goes on to note that the department
13 Criminal Investigation Unit employs 3 agents to handle its workload. It has
14 almost been two decades since a tax case on Guam has actually been prosecuted.
15 Most notably is the fact that the department has not had a legal team in place for
16 many years and therefore unable to successfully be guided when dealing with a
17 complex and ever changing tax code. P.L. 30-55 provided provisions that
18 appropriated \$605,467 and \$652,938 to retain necessary personnel and to hire
19 new employees, respectively. However, *I Liheslatura* finds that it should revisit
20 the department's budgetary needs and to address the inherent problems the
21 Department of Revenue and Taxation experiences in fulfilling its mandates. *I*

1 *Liheslatura* finds that the financial condition of the government of Guam are
2 worsened by a weak and under-funded revenue and taxation department. *I*
3 *Liheslatura* further finds that the executive and legislative branches of our
4 government must realize that the Department of Revenue and Taxation is just as
5 essential as health, education and safety of our people. A majority of revenues
6 expended to carry out the functions of the three top priorities of our government
7 is derived from the collection of taxes. *I Liheslatura* further finds that providing
8 the Department of Revenue and Taxation an additional \$7,000,000 for their
9 operations will result in at least \$23,000,000 of additional revenues for the
10 government of Guam, as testified by department director and highlighted by a
11 Department of Interior Inspector Generals report. An increase in revenues to our
12 government coffers will result in our people receiving their tax refunds on a
13 timely manner. An increase in revenue collections will ensure this government
14 does not raise taxes. The ability of the Department of Revenue and Taxation to
15 effectively seek out unpaid taxes and go after the “underground economy” will
16 ensure the monies due the people of Guam are collected. Aside from its
17 responsibilities of collecting taxes, the Department of Revenue and Taxation has
18 also been mandated to carry out several other functions and responsibilities such
19 as: Vehicle Registration, Driver’s License, Guam Identification Cards, Business
20 License, Alcohol Beverage Control, Weights and Measures, and Passports. The
21 department is also the government of Guam’s regulating arm of Insurance,

1 Securities, Savings and Loans, Real Estate Brokers, and Appraisers and Tax
2 Preparers. *I Liheslatura* further finds that the Office of the Public Auditor (OPA)
3 has determined that GHC currently maintains a \$12.8M cash and investments
4 balance. Furthermore, the OPA states that, “Given the General Fund deficit of
5 \$510M, GHC’s cash can be a ready source of funds to pay the General Fund
6 obligations...”. *I Liheslatura* finds that the most viable option at this juncture
7 would be to mandate the transfer of \$7,000,000 from the GHC “Unrestricted Cash
8 and Cash Equivalents” to the General Fund to fully fund DRT’s budgetary needs
9 to effectively fulfill its mandates. The \$12,000,000 surplus that is being held by
10 GHC came as a result of P.L. 26-123, which essentially forgave GHC loan in
11 excess of \$12.5M. Prior to the enactment of P.L. 26-123, the Guam Housing
12 Corporations finances were deteriorating and their projected cash flow was
13 expected to worsen. The 26th Guam Legislature’s intent was to ensure the GHC’s
14 finances would stabilize and for the corporation to be able to meet it’s other
15 financial obligations. *I Liheslatura* now finds that the GHC finances have
16 improved and is capable of returning the assistance it once received from the
17 government of Guam. Therefore, it is the intent of *I Liheslaturan Guahan* to
18 provide the adequate level of resources to the Department of Revenue and
19 Taxation for the purpose of ensuring past due taxes are collected and that taxpayer
20 compliance is strengthened. It is further the intent of *I Liheslaturan Guahan* to
21 ensure the Department of Revenue and Taxation reimburses GHC the full

1 \$7,000,000 within a one-year period. *I Liheslatura* further intends to authorize
2 DRT to utilize the additional funding this Act provides to recruit and retain
3 personnel and to purchase new equipment and technology to aide in the collection
4 of at least \$20,000,000 each year. Lastly, it is the intent of *I Liheslatura* to
5 recognize the Department of Revenue and Taxation as Integral component of our
6 government's financial structure and to ensure that it is provided the necessary
7 tools and resources to collect present, past and future financial obligations due to
8 the people of Guam.

9 **Section 2. Transfer of Funds.** Notwithstanding any other provision of law,
10 the sum of Seven Million Dollars (\$7,000,000) shall be transferred from the Guam
11 Housing Corporation's Unrestricted Cash and Cash Equivalents to the General
12 Fund for the purpose of funding the appropriation made in Section 3 of this Act.
13 These funds are not subject to any Governor's transfer Authority.

14 **Section 3. Appropriation to the Department of Revenue and Taxation.**
15 The sum of Seven Million Dollars (\$7,000,000) is hereby appropriated from the
16 General Fund, from the transfer of funds from the Guam Housing Corporation,
17 pursuant to Section 2 of this Act, to the Department of Revenue and Taxation for
18 the recruitment and retention of personnel and for the purchase of equipment and
19 technology for the purpose of effectuating an aggressive tax assessment and
20 collection program. This appropriation shall not be subject to the Governor's
21 transfer authority or the Bureau of Budget and Management's allotment process.

1 The Department of Administration shall release this appropriation for immediate
2 expenditure and encumbrance of the DRT based on the Disbursement Schedule
3 prepared by the DRT. No funds appropriated in this section shall be held in
4 reserve.

5 **Section 4. Use of additional funds collected.** Prior to any earmarking this
6 Section provides, the \$7,000,000 transferred from GHC to the General Fund shall
7 be reimbursed to GHC no later than 30 September 2010. The additional revenues
8 collected as a result of the aggressive tax collection program shall be earmarked for
9 the reserve for tax refunds. Any portion of the \$7,000,000 not reimbursed by the
10 General Fund to GHC by 30 September 2010 shall be subject to finance charges
11 imposed by GHC.

12 **Section 5. Reporting Requirement.** The Department of Administration
13 shall submit a report to *I Liheslaturan Guahan* on the amount and date of the
14 transfer of funds from the GHC to the General Fund and shall also provide a
15 monthly report on the release of funds, expenditures and encumbrances from
16 appropriations made in Section 3 of this Act.