

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

Bill No. 288-30(COR)

Introduced by:

v.c. pangelinan

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**AN ACT TO AMEND SECTION 8154 OF ARTICLE 1,
CHAPTER 8, TITLE 4 OF THE GUAM CODE ANNOTATED,
RELATIVE TO AUTHORIZING INVESTMENTS IN FIXED
INCOME SECURITIES COVERED IN THE U.S.
AGGREGATE BOND INDEX**

BE IT ENACTED BY THE PEOPLE OF GUAM:

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2 **Section 1.** Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that the
3 statutory restrictions governing the investment of funds held in trust for the benefit of the Defined
4 Benefit Plan members and beneficiaries effectively limit investments in fixed income securities, as
5 the statute currently does not permit investments in the full range of fixed income securities
6 covered by the Barclays Capital U.S. Aggregate Bond Index (the "Index", created in 1986 and
7 formerly known as the Lehman Aggregate Bond Index). The Index provides a benchmark debt
8 index for U.S. investment-grade fixed income securities. It covers the U.S. dollar-denominated,
9 investment-grade, taxable bond market for securities registered with the Securities and Exchange
10 Commission. The Index covers bonds from the Treasury, Government-Related, and fixed-rate
11 mortgage-backed securities (agency fixed-rate and hybrid adjustable rate mortgage passthroughs).
12 Non-government related bonds eligible to be listed on the Index include corporate bonds and
13 derivative bonds such as mortgage-backed securities, asset-backed securities and commercial
14 mortgage-backed securities.

15 *I Liheslaturan Guåhan* finds that the permitted fixed income investments in domestic
16 (U.S.) Government Bonds (under Sections 8150, 8152, and 8153 of Article 1, Chapter 8, Title 4 of
17 the Guam Code Annotated) comprise roughly half of the fixed income investments currently
18 covered by the Index. For example, Section 8150 permits investments in bonds issued by the
19 United States of America, its agencies and instrumentalities. Section 8152 permits investments in
20 bonds issues by states or territories of the United States. Section 8153 permits investments in
21 bonds which are payable from revenues or earnings specifically pledged by a public utility, state,
22 municipality, or territory.

23 *I Liheslaturan Guåhan* finds that of the other half of fixed income investments covered by
24 the Index (the non-government bonds), only a small portion is permitted under the Defined Benefit
25 Plan statute. For example, Section 8154(a) permits investments in certain corporate bonds issued

1 by domestic (U.S.) corporations, but does not permit investments in other non-governmental
2 domestic (U.S.) fixed income investments covered by the Index.

3 *I Liheslaturan Guåhan* finds that legislative action is needed to allow the Board of
4 Trustees of the Defined Benefit Plan to invest in additional non-government bonds that could
5 reasonably be expected to produce, on average over time, additional returns net of fees, without
6 increasing investment risk.

7 *I Liheslaturan Guåhan* further finds that the quality standards governing the rules for
8 inclusion in the Index are consistent with the investment risks required under the existing Defined
9 Benefit Plan statute applicable to fixed income investments.

10 *I Liheslaturan Guåhan* finds that the limitation on maximum percentage investments in
11 Section 8154(c) is appropriate for domestic (U.S.) and foreign corporate bonds, but not for other
12 types of non-governmental bonds that may be covered by the Index.

13 *I Liheslaturan Guåhan*, therefore, intends to permit investments of Defined Benefit Plan
14 assets in the fixed income securities that are covered by the Index. This amendment to Section
15 8154 would permit the Board of Trustees to invest not only in domestic (U.S.) governmental
16 bonds under Sections 8150, 8152, and 8153, and in corporate domestic (U.S.) bonds under
17 Section 8154(a), but also in the type of U.S. dollar denominated, investment-grade, fixed rate,
18 taxable bond market of SEC-registered securities covered by the Index. *I Liheslaturan Guåhan*
19 further intends that the limitation on maximum percentage investments in Section 8154(c) will *only*
20 apply to corporate bonds described in Sections 8154(a) and 8154(b).

21 **Section 2. Section 8154 of Article 1, Chapter 8, Title 4 Guam Code Annotated**
22 **is hereby amended to read as follows:**

23 **"§8154. Same: Bonds of Domestic and Foreign Corporations; Index-Eligible**
24 **Securities.**

25 (a) Bonds of Domestic Corporations. Bonds, debentures, notes and other evidences of
26 indebtedness of any corporation or corporations created or existing under the laws of the United
27 States, or of any of the states or territories of the United States or the District of Columbia which
28 are not in default either as to principal or interest, provided that:

29 (1) Such bonds or other evidence of indebtedness are rated within the four (4)
30 highest categories of two (2) nationally recognized and published rating services which
31 have been approved by the Board and the Investment Agent; or

32 (2) In case such bonds or other evidence of indebtedness are not so rated by
33 two (2) such services, the net earnings available for fixed charges over a prior period of five
34 (5) fiscal years next preceding the date of investment have averaged per year and during
35 either of the last two (2) years have been, after depreciation and after taxes, not less than:

36 (a) Two (2) times its average annual fixed charges over the same

1 period, in the cause of any public utility company;

2 (b) One and one-half (1-1/2) times its average annual fixed charges
3 over the same period, in the cause of any finance company; or

4 (c) Three (3) times its average annual fixed charges over the same
5 period, in the case of any other company.

6 (3) No more than Two Percent (2%) of the Fund at cost shall be invested in the
7 obligations of any one (1) domestic corporation or other single domestic issuing entity
8 described in this Subsection.

9 (b) Bonds of Foreign Corporations. Bonds, debentures, notes and other evidences of
10 indebtedness of any corporation or corporations created or existing under the laws of nations other
11 than the United States which are not in default either as to principal or interest, provided that the
12 Investment Agent in its informed opinion, determines that such an investment would be employed
13 by a prudent man acting in a like capacity and familiar with such matters would use in the
14 investment of a fund of like character and with like aims. No more than One and One-Half
15 Percent (1-1/2%) of the Fund at cost shall be invested in the obligations of any one (1) foreign
16 corporation or other single issuing foreign entity described in this Subsection.

17 (c) No investment shall be made in any one (1) issue described in Subsections (a) and
18 (b) of this Section in an amount in excess of Ten Percent (10%) of such issues.

19 (d) Other Securities in the U.S. Aggregate Bond Index. Bonds, debentures, notes and
20 other evidences of indebtedness which are denominated in U.S. Dollars, investment-grade, fixed-
21 rate and of the quality of fixed income securities covered by the U.S. Aggregate Bond Index."

22 **Section 3. Effective Date.** This Act shall become effective when enacted.

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

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