

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2010 (SECOND) Regular Session

Bill No. 355-30 (COR)

Introduced by:

T.C. ADA 

19:39
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**AN ACT TO AMEND SECTION §10101 AND 10105(i) OF CHAPTER 10,
TITLE 12, GUAM CODE ANNOTATED RELATIVE TO THE JOSE D.
LEON GUERRERO COMMERCIAL PORT'S AUTHORITY TO LEASE
REAL PROPERTY**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that
3 investment by the private sector is a necessary component to the improvement and development
4 of the Port. Current law however, prohibits the Port from entering into leases or other land use
5 arrangements for periods beyond five (5) years, unless approved otherwise by the Guam
6 Legislature. Providing the Port with the authority to negotiate and enter into leases of longer
7 terms will provide a more attractive environment for capital investment at the Port, and in turn,
8 the creation of jobs and other economic activities.

9 *I Liheslaturan Guåhan* further finds that long-term leases for properties under the
10 jurisdiction of the Port should be limited to Port dependent or marine commercial activities,
11 which require significant capital investments. *I Liheslaturan Guåhan* therefore intends to
12 authorize the Port to enter into long-term lease agreements for the use and development of Port
13 properties.

1 *I Liheslaturan Guåhan* further finds that the Port would benefit from the improvement
2 and development of vacant Port properties. To achieve maximum development of Port
3 properties, lease rates may be set lower than Fair Market Value for a brief period during the
4 mobilization period that occurs prior to the commencement of construction to assist developers
5 in achieving development objectives.

6 **Section 2. A new subsection (g) is hereby added to §10101, Chapter 10 of Title 12**
7 **Guam Code Annotated**, to read as follows:

8 (g) Marine Commercial Activity means business activities which require navigation of
9 Guam’s waterways, including but not limited to berthing of ocean vessels; ship and marine
10 equipment repair or storage of related materiel; staging or storage of cargo that will be shipped to
11 off-island destination(s) or to be transported to on-island destination points; passenger terminal
12 operations; or commercial fishing and mariculture activities.

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14 **Section 3. Amendment of Section 10105(i) to Chapter 10 of Title 12 of the Guam**
15 **Code Annotated.** Section 10105(i) of Chapter 10, Title 12, Guam Code Annotated is hereby
16 amended to read:

17 (i) Notwithstanding any other provision of law, make, negotiate and enter into a commercial
18 lease, or issue a permit or license for the use of its real property and other related facilities for a
19 term not to exceed five years. The Board shall not delegate control to any entity the use of a
20 quay, wharf, dolphin or other structure intended for the berthing of vessels.

1 **Section 4. Addition of Section 10105(j) to Chapter 10 of Title 12 of the Guam Code**

2 **Annotated.** Section 10105(j) of Chapter 10, Title 12, Guam Code Annotated is hereby added to
3 read:

4 (j) Notwithstanding any other provision of law, the Board may (1) enter into a lease for the use
5 of its real property or other facilities for marine commercial activities for a term up to twenty
6 years upon determination by the Board at the time of execution of the lease of a lessee's
7 commitment to expend no less than Five Million Dollars on the improvement or development of
8 the leased property within the first five years of the lease or (2) enter into a lease for the use of its
9 real property or other facilities for marine commercial activities for a term up to thirty years upon
10 determination by the board at the time of execution of the lease of a lessee's commitment to
11 expend no less than Ten Million Dollars on the improvement or development of the leased
12 property within the first five years of the lease. The Board shall reserve the right to terminate
13 any such lease upon failure of the lessee to provide satisfactory proof of progress that the
14 minimum capital investment expenditure described herein will be achieved within the first five
15 years of the lease. For the purposes of this section, improvement or development shall mean the
16 construction or refurbishing of buildings, utilities, or other permanent fixtures upon or leading to
17 the leased property. Rental rates for leases made pursuant to this section shall be determined
18 solely by the Board but shall not be less than the Fair Market Value (FMV) of the leased
19 property as determined by an appraisal; however the Board may set lease rental at a rate no lower
20 than 50% of FMV for a period not to exceed twenty-four (24) months from the commencement
21 date of the lease, or the commencement of development. The appraisal shall be made within one
22 year preceding the commencement of the lease by an appraiser licensed pursuant to Chapter 30,
23 Title 22 of the Guam Code Annotated.

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