



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
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Felix Perez Camacho
Governor

Kaleo Scott Moylan
Lieutenant Governor

06 MAY 2005

The Honorable Mark Forbes
Speaker
Mina' Bente Ocho Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No.74 (EC, "AN ACT AUTHORIZING I MAGA'LAHEN GUÅHAN TO BORROW OR TO ARRANGE FOR A LINE OF CREDIT NOT TO EXCEED TEN MILLION DOLLARS (\$10,000,000) WITH LOCALLY LICENSED FINANCIAL INSTITUTIONS, GOVERNMENT OF GUAM AUTONOMOUS AGENCIES, OR GOVERNMENT OF GUAM INSTRUMENTALITIES," now designated as Public Law 28-35.

I commend I Mina' Bente Ocho Na Liheslaturan Guåhan for its expeditious and unanimous passage of Bill No. 74. I would also like to thank Senator Edward J.B. Calvo and his Committee on Finance, Taxation and Commerce for their diligent efforts through the committee process and most especially for working with the Administration to help pass Bill No. 74.

Thank you again for helping us make it possible to acquire a line of credit to fund our public health, safety and educational assistance programs as well as close the Ordot landfill and assist persons in our community with developmental disabilities.

Sinseru yan Magåhet,

[Handwritten signature of Felix P. Camacho]

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment: copy attached of signed bill

cc: The Honorable Eddie Baza Calvo, Senator and Legislative Secretary

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE
ACKNOWLEDGEMENT RECEIPT
Rcv'd by: [Signature]
Print Name & Initial
Time: 4:56 PM Date: 5/9/05

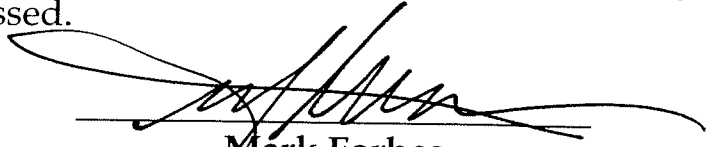
Office of the Speaker
MARK FORBES

Date: 5/9/05
Time: 12:50
Rec'd by: [Signature]
Print Name: [Signature]
28/05-166

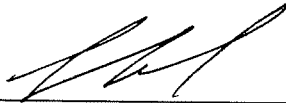
I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

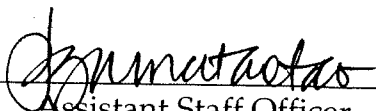
This is to certify that **Substitute Bill No. 74 (EC), "AN ACT AUTHORIZING I MAGA 'LAHEN GUÅHAN TO BORROW OR TO ARRANGE FOR A LINE OF CREDIT NOT TO EXCEED TEN MILLION DOLLARS (\$10,000,000) WITH LOCALLY LICENSED FINANCIAL INSTITUTIONS, GOVERNMENT OF GUAM AUTONOMOUS AGENCIES, OR GOVERNMENT OF GUAM INSTRUMENTALITIES,"** was on the 9th day of April, 2005, duly and regularly passed.


Mark Forbes
Speaker

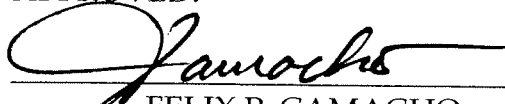
Attested:


Edward J.B. Calvo
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 11 day of April, 2005,
at 4:32 o'clock P.M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:


FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 4/22/05

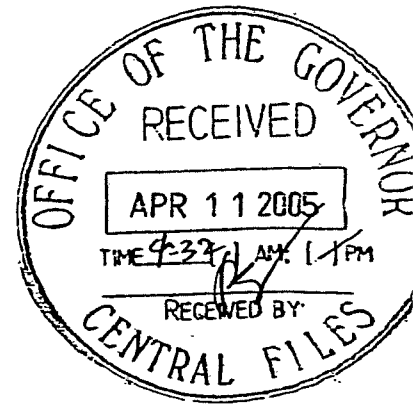
Public Law No. 28-35



MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

April 11, 2005

The Honorable Felix P. Camacho
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 5(LS), 34(EC), 39(EC), 40(EC), 43(EC), 52(EC), 54(EC) and 83(EC); and Substitute Bill Nos. 6(LS), 9(LS), 32(EC), 56(EC), 74(EC) and 78(EC) which were passed by *I Mina'Bente Ocho Na Liheslaturan Guåhan* on April 9, 2005.

Sincerely,

EDWARD J.B. CALVO
Senator and Secretary of the Legislature

Enclosures (14)

I MINA'BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 74 (EC)

As substituted by the Committee on
Finance, Taxation and Commerce.

Introduced by:

Committee on Calendar
by request of *I Maga'lahaen Guåhan*, the
Governor of Guam, in accordance with
the Organic Act of Guam.

**AN ACT AUTHORIZING *I MAGA'LAHEN GUÅHAN* TO
BORROW OR TO ARRANGE FOR A LINE OF CREDIT NOT
TO EXCEED TEN MILLION DOLLARS (\$10,000,000) WITH
LOCALLY LICENSED FINANCIAL INSTITUTIONS,
GOVERNMENT OF GUAM AUTONOMOUS AGENCIES,
OR GOVERNMENT OF GUAM INSTRUMENTALITIES.**

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

2 **Section 1. Authority to Borrow.** *I Maga'lahaen Guåhan*, on behalf of the
3 government of Guam, is authorized to borrow or arrange for a line of credit
4 *not to exceed* Ten Million Dollars (\$10,000,000), and to execute a financial
5 agreement with any bank or commercial lending institution licensed on
6 Guam, government of Guam autonomous agencies or any other
7 instrumentality of the government of Guam. The terms of the loan or line of
8 credit shall include the following:

9 (a) *I Maga'lahaen Guåhan* shall use Ten Million Dollars
10 (\$10,000,000) of such loan for the purpose of funding Public Health,
11 Safety and Educational assistance programs as appropriated in Public
12 Laws 27-106 and 27-107, as amended, and compliance with the Consent
13 Decree in Civil Case No. 02-00022 and the permanent injunction in Civil
14 Case No. CIVOI-OO041;

1 (b) prepaid charges shall not be levied by the bank or entity for
2 opening a line of credit;

3 (c) interest derived from the financial agreement shall be exempt
4 from taxation by the government of Guam;

5 (d) all terms of the financial agreement shall be negotiated by *I*
6 *Maga'lahaen Guåhan* in the best interest of the People of Guam;

7 (e) the interest rate shall be negotiated between *I Maga'lahaen*
8 *Guåhan* and the lender, such interest rate shall not exceed seven percent
9 (7%) per annum and shall be computed on a three hundred sixty-five
10 (365) days calendar year upon the actual amount extended to the
11 government, and to be paid annually;

12 (f) the loan or line of credit will be secured by a pledge of Rural
13 Telephone Bank (RTB) stocks and or any converted equivalent funds;

14 (g) any money borrowed shall be repaid within five (5) years with
15 the option to extend for another five (5) years, and in no case shall any
16 amount borrowed be financed, resulting in a repayment more than five
17 (5) years after the loan is made *unless* the option to extend is exercised;
18 and

19 (h) funds necessary for the repayment of the principal, interest and
20 other costs associated with the financing, are to be paid from the
21 dividends and/or other income derived from the secured collateral.
22 Interest earned on collateral to be sufficient to cover interest due on the
23 line of credit.

24 **Section 2. Severability.** *If any provision of this Act or its application*
25 *to any person or circumstance is held invalid, the invalidity does not affect*

1 other provisions or applications of this Act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this Act
3 are severable.

6

I MINA' BENTE OCHO NA LIHESLATURAN GUAHAN
2005 (FIRST) Regular Session

Date: 4/9/05

VOTING SHEET

S. Bill No. 74 (EC)

Resolution No. _____

Question: _____

NAME	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT</u>
AGUON, Frank B., Jr.					EA
BROWN, Joanne M.S.	✓				
CALVO, Edward J.B.	✓				
CRUZ, Benjamin J.F.	✓				
CRUZ, Michael (Dr.)	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
KLITZKIE, Robert	✓				
LEON GUERRERO, Lourdes A.			Recused		
LUJAN, Jesse A.	✓				
PALACIOS, Adolpho B.	✓				
RESPICIO, Rory J.	✓				
TENORIO, Ray	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL

13 0 1 0 1

CERTIFIED TRUE AND CORRECT:


 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

E-Mail address: senatorcalvo@hotsheet.com
155 Hessler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801
Facsimile: (671) 475-8805

March 25, 2005

The Honorable Mark Forbes
Speaker
Mina Bente Ocho na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Håfa adai, Mr. Speaker:

The Committee on Finance, Taxation, and Commerce, to which **Bill No. 74 (EC): "An Act Authorizing *I Maga'låhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities"**, was referred, wishes to report its findings and recommendations TO PASS Bill No. 74 (EC), *as substituted by the Committee*.

The voting record for Bill No. 74 (EC) is as follows:

TO PASS	<u>5</u>
NOT TO PASS	<u>0</u>
TO REPORT OUT	<u>1</u>
ABSTAIN	<u>0</u>
TO PLACE IN INACTIVE FILE	<u>0</u>

Copies of the Committee Report and other pertinent documents are attached. Thank you for your attention in this matter. *Si Yu'os Ma'åse!*


Senator Edward J.B. Calvo
Chairman



MINA' BEN E OCHO NA LIHESLATURA GUAHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

E-Mail address: senatorcalvo@hotsheet.com
155 Hessler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801
Facsimile: (671) 475-8805

March 25, 2005

MEMORANDUM

To: Committee Members


From: Chairman, Committee on Finance, Taxation, and Commerce

Subject: Committee report on Bill 74 (EC) *as substituted by the Committee on Finance, Taxation, and Commerce*

This memorandum is accompanied by the following:


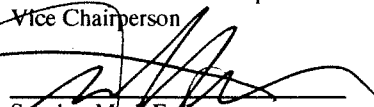
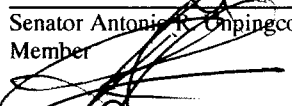
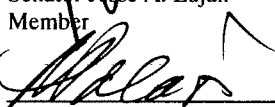
1. Committee voting sheet
2. Public Hearing sign-in sheet
3. Notice of Public Hearing
4. Testimonies submitted

Please take the appropriate action on the attached voting sheet. Your attention and cooperation in this matter is greatly appreciated. Should there be any questions regarding this matter, please feel free to contact my office at 475-8801.


Senator Edward J.B. Calvo
Chairman

Committee Voting Sheet
Committee on Finance, Taxation, and Commerce
Office of Finance and Budget
Sinadot Edward J.B. Calvo, Ge'Hilo'

Bill No. 74 (EC): "An Act Authorizing *I Maga'låhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities", as substituted by the Committee on Finance, Taxation, and Commerce.

Committee Members	To Pass	Not to Pass	Report Out	Abstain	Inactive File
 _____ Senator Edward J.B. Calvo Chairperson	✓				
_____ Senator Lawrence F. Kasperbauer Vice Chairperson					
 _____ Speaker Mark Forbes Member	✓		✓		
_____ Senator Antonio R. Onpingco Member					
 _____ Senator Ray Tenorio Member	✓				
_____ Senator Jesse A. Lujan Member					
 _____ Senator Adolpho B. Palacios Member	✓				
_____ Senator Frank B. Aguon, Jr. Member					



MINA' BEN'E OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

E-Mail address: senatorcalvo@hotsheet.com
155 Hessler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801
Facsimile: (671) 475-8805

Committee Report on

Bill 74 (EC): "An Act Authorizing *I Maga'låhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities", *as substituted by the Committee on Finance, Taxation, and Commerce.*

I Mina' Bente Ocho Na Liheslaturan Guåhan
Committee on Finance, Taxation and Commerce
Sinadot Edward J.B. Calvo, Ge' hilo

I. OVERVIEW

The Committee on Finance, Taxation and Commerce held a Public Hearing on Thursday, March 17, 2005, called to order at 9:35 a.m. at *I Liheslaturan Guahan's* Public Hearing Room. Notice of this public hearing was locally disseminated to the media including to interested parties meeting the Open Government Act requirements. The notices are attached herein for reference purposes.

a. Committee Members and Senators present:

Chairman Edward J.B. Calvo
Vice Chairman Lawrence F. Kasperbauer
Speaker Mark Forbes - Ex officio
Senator Antonio R. Unpingco - Member
Senator Adolpho B. Palacios - Member
Vice-Speaker Joanne M.S. Brown
Senator Robert Klitzkie
Senator Mike Cruz
Senator Judith T. Won Pat
Senator Lou Leon Guerrero
Senator Benjamin J. Cruz

b. Appearing before the Committee:

Attorney General Douglas Moylan - Attorney General of Guam
Mr. Andy Jordanou - Chief Financial Advisor, Governor's Office
and Banking and Insurance Commissioner
Mr. Artemio Illagan - Director, Department of Revenue and
Taxation
Mrs. Tina Garcia - Public Finance Officer, Guam Economic
Development and Commerce Authority
Attorney Mariam Wallistock - Assistant Attorney General

c. Written testimony provided:

Mr. Andy Jordanou - Chief Financial Advisor, Governor's Office
and Banking and Insurance Commissioner
Mr. Gerry Perez - Administrator, Guam Economic Development
and Commerce Authority
Attorney Shannon Taitano - Legal Counsel, *I Maga'lahren Guåhan*
Mr. Tony Lamorena - Senior Assistant to the Governor on Policy,
Communications and Research

II. SUMMARY OF VERBAL AND WRITTEN TESTIMONIES:

Chairman Edward J.B. Calvo reconvened the Committee on Finance, Taxation and Commerce to order at 1:03 p.m. after a lunch recess. The Committee and Senatorial panel members present were Senator Adolpho Palacios, Speaker Mark Forbes, Senator Antonio Unpingco, and Senator Robert Klitzkie. Bill Number 74 (EC), "*An Act Authorizing I Maga'lahren Guåhan To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities,*" was introduced by the Committee on Calendar, by request of *I Maga'lahren Guåhan* in accordance with the Organic Act. Chairman Calvo proceeded with introductory comments relative to the intent and purpose behind *I Maga'lahren Guåhan's* request.

Mr. Andy Jordanou, Chief Financial Advisor for *I Maga'lahren Guåhan*, was recognized to present his verbal testimony which was also submitted to the Committee in written form. Mr. Jordanou explained that the proposed borrowing facility will be utilized as a means of providing funds for the purpose of satisfying essential cash deficiencies of the government of Guam. The method of financing will be through a line of credit (LOC) supported with either Rural Telephone Bank Stock presently withheld pursuant to the GTA sale arrangement or with converted equivalent funds.

On the sell of GTA, an agreement was executed to hold sufficient funds owed to Rural Utility Services (USA), maturing on March 31 2005. A possible extension may be considered in retrospect to a debt relief request which also may be totally satisfied by the proceeds on the sale of GTA amounting \$104 million dollars. The stock value of \$11.8 million which is proposed to be partially used as collateralization for the facility is also held. The best investment method on release stocks is a conversion to an equivalent security

recommended by Mr. Jordanou and GEDCA. The investment will allow for the best possible return.

Mr. Jordanou explained that the arrangement of an 86% return on investment and facility with an accrued interest rate of 7 percent will allow for sufficient interest earned to off-set the interest withheld on the \$10 million facility principal. If a lower interest rate is obtained on the rate of return, then the outstanding principal would not increase. This will cause the interest hold to be lower than what is earned on investment. The interest hold is only on the outstanding balance and not on the entire \$10 million line of credit.

The amounts borrowed will be repaid outside of the general fund and will not to be classified as a government debt obligation. This has been reviewed by the government's bond counsel. An account will be created to insure that no commingling occurs with the general fund. This is similar to a trust account and is consistent with government policy by allowing GEDCA to handle the RFP assuring that local financial institutions have an opportunity to bid. If no offers are obtained locally, then assistance will be obtained through the government's New York financial advisers. Mr. Jordanou concluded his testimony by offering recommendations on corrections to Bill Number 74 (EC).

Mrs. Tina Garcia was recognized by the Chairman presenting testimony on behalf of Mr. Gerry Perez who is the Administrator of GEDCA. Mrs. Garcia proceeded by reading Mr. Perez' testimony explaining Bill Number 74 (EC) which authorizes *I Maga'lahaen Guahan* to borrow or arrange a line of credit not exceeding \$10 million for the purpose of funding public health, safety and education assistance programs for a term of up to 5 years with an additional extension of another five years. She continued by elaborating that the LOC will be secured through a pledge of Rural Telephone Bank stock or through similar sources.

The principal, interest and other costs associated with the financing will be a limited obligation payable from the dividends and income derived of the pledged collateral. Currently, Rural Telephone Bank stocks are collateralized securing the Guam Telephone Authority's \$104 million obligation to the Rural Utility Services. Mrs. Garcia concluded her testimony by stating that upon payment of the outstanding loan amount or upon debt forgiveness as provided by Congress, the government may use the stocks as a pledge for the facility as contained within Bill Number 74 (EC).

Attorney General Douglas Moylan offered his oral testimony on the proposed measure. The Attorney General mentioned he was informed earlier in the week by his staff about the scheduled hearing for the bill. The Attorney General

elaborated that the proposed measure will impact upon ongoing litigation with the Governor's office on whether the government of Guam, has exceeded its bond ceiling imposed by 48 USC, §1423(a), Organic Act of Guam. The case is pending in the Ninth Circuit Court resulting by the passage of HR 2400 which made the judiciary a true third branch of the government on Guam.

According to the Attorney General, the bill appears to violate §1423(a) of the Organic Act, by imposing public indebtedness that is authorized and entered into, and is secured by revenue which is not a public improvement. The Attorney General explained that the Organic Act exempts revenue that is part of the public improvement. He then offered an option explaining that autonomous agencies are obligated to pay the government of Guam through an existing law applicable to autonomous agencies called the Infrastructure Improvement Fund.

Existing law enables the government of Guam to tax or be reimbursed funds, used as seed capital invested on the autonomous agencies which also includes funds appropriated to bail out cash strapped autonomous agencies. If the Legislature utilizes existing law as a vehicle to assist the executive branch funding, then it may obviate and circumvent the legal requirements of the Organic Act.

The Attorney General explained that the \$10 million cash infusion into the government may be obtained from autonomous agencies that continue to turn a profit. This can be achieved through the assistance of each board and by direction of the Governor. Apart from any bond covenant issue that may be argued, which autonomous agencies have entered into, the Attorney General stated that these agencies are appropriating entities and can appropriate funds to the parent which is the government of Guam. The Koko Recycling Guam Supreme Court decision rendered in 2002 and the Bordallo vs. Baldwin Ninth Circuit decision, clearly holds that autonomous agencies are instrumentalities of the government of Guam and any distinction is created by the Legislature. Any barriers may be removed simply by the Legislature. Instead of a loan, the Attorney General suggested that the Legislature may request that autonomous agencies payback certain funds. Also, excesses of their profit margin or a certain percentage of their revenue may be statutorily imposed as a payment back to the government.

The Attorney General compared the bill to another similar issue faced as a question in 2003. He contends that the government is unable to borrow money through a revenue stream to fund a certain debt unless it is a public improvement recognized by the Organic Act. He further emphasized that the

government of Guam is about \$900 million dollars in debt and that the primary problem is that there is no appraisal supporting what is the actual value of real property on Guam. The last appraisal was done in 1993. The Attorney General concluded that he cannot endorse the bill in its current form and may provide other options but not as proposed.

The Chairman believes that the bill is at an impasse. There is an issue that has not been settled and is an ongoing litigation that needs a conclusion so that the government may find the necessary cash flow enabling the administration to provide the services in keeping this government afloat.

In response, the Attorney General contends that since there is no current appraisal, any additional debt will be in violation of the debt ceiling requirement established through the Organic Act. He further elaborated that without debating public indebtedness, there is still a problem in a blank formula which determines the property value on Guam. The Legislature recognizes they can make an estimation but based on a Virgin Islands case, an actual appraisal is required. Even with a small amount of debt, you can not determine the legal ceiling because there is no appraisal. The Attorney General can not determine at this time what the debt ceiling figure should be.

The Chairman inquired about the law passed in 1986 that requires autonomous agencies to repay funds to the government of Guam. The Attorney General indicated that law predates most existing contracts of the autonomous agencies. It is a pre-existing law that the autonomous agencies have not complied with but have entered into contracts incurring obligations while the law is in place. The autonomous agencies may argue that its enforcement may violate a loan covenant or bond condition bond. However, these autonomous agencies should show which loan covenant or restriction it would violate.

The Chairman continued that the autonomous agency may raise rates to increase revenues in order to repay funds that the government has spent on those agencies. The Chairman recognizes that it is a viable alternative but the true issue is their cash flow which is an obstacle in accomplishing this alternative and suggests that all avenues be explored. The Attorney General in response stated that it is an obligation of the autonomous agency so it should not affect their cash flow or bond covenant as it is an ongoing obligation to repay the government. If the agencies are in the black then it should not effect them.

The Chairman recognized that the Governor's bond counsel has reviewed the methodology of the proposed LOC. The Attorney General has brought forth these issues and the Chairman requested whether there are alternatives to

resolve them. Mr. Jordanou mentioned that he will reevaluate the issues brought forth on limited obligation debt and of the Organic Act. He stated that the preliminary reviews by GEDCA's counsel indicate the repayment structure imposed would not fall within the general obligation. The underlying review was the format of the repayment structure which pays the obligation outside of the general fund. However, the Attorney General noted that the LOC funds will be used for certain injunctions, debts and obligations of the government.

The last land assessment was completed in 1993 with a valuation of \$11 billion. The Attorney General noted that under contention is whether the debt ceiling is \$1.1 billion. The government uses an assessed value rather than the appraised value for land taxes. The Attorney General indicated that using the appraised value as the correct approach.

The Chairman questioned whether the \$1.1 billion debt is exclusive of bond indenture obligations derived from public improvement and capital improvement projects. The Attorney General responded answering that the \$1.1 billion debt ceiling is for general obligation indebtedness.

Senator Unpingco inquired whether a revenue obligation bond and a general obligation use similar computation methods in determining the debt ceiling limit. The Attorney General responded where revenue is produced through public improvements funded by a public improvement revenue bond is not included. Tina Garcia added that the total liability of the government in general obligation debt is about \$170 million while the limited obligation debt is about \$153 million amounting \$323 million as of December 2004.

The Attorney General asserts that a triannual land assessment must be legally followed. His figures were close to \$700 million which did not include the unfunded liability of the retirement fund. The \$323 million debt is a low estimate and does not factor in other government debt obligations. The \$1.1 billion is the appraised property value which is not the assessed tax value. The Attorney General's office computes Guam's debt ceiling at \$400 million.

Assistant Attorney General Mariam Wallistock overseeing the Ninth Circuit Court case, submitted clarification that 35 percent of the appraised land value is used as the taxable assessed value. She continued that the full appraised land value should be used.

Mr. Artemio Illagan responded that the Department of Revenue and Taxation uses the appraised value in computing the government's debt ceiling. It was not until the Attorney General demanded to use the assessed value as the correct method in computing debt ceiling.

In a lower court decision in Barrett-Anderson vs. Crisostomo, 1989, the ruling agrees that the government is correct in using the appraised value in computing Guam's debt ceiling. The Attorney General's Office challenges that decision and has appealed it in the Ninth Circuit Court.

The Attorney General raised issue over Mrs. Garcia's statement that the LOC does not violate the debt limitation imposed by the Organic Act. The Attorney General does not agree with the bond counsel's interpretation. He continued that the Ninth Circuit Court had issue thus accepting the case.

Speaker Forbes elaborated that the government has been poor in the past quantifying the government's deficit which has been used more as a political tool than an accounting tool. One of the reasons why we are at this impasse is due to the government's inability to conduct the triannual land appraisal required by law.

I Maga'lahañ Guåhan's legal counsel, Attorney Shannon Taitano, submitted written testimony clarifying whether the LOC authorized in Bill Number 74 (EC) violates the debt limitation established by 48 USC, §1423(a), Organic Act of Guam. Attorney Taitano clarified that the provision imposes a limit on "public indebtedness and specifically excludes certain obligations such as revenues derived from public improvement or undertakings from the debt calculation. She specified that the Guam Supreme Court recently interpreted the term "indebtedness" as it relates to the Organic Act. The term in its Constitutional sense should be viewed in its broad and general meaning or all contractual obligations to pay in the future for considerations presently received. Citing a Declaratory Judgement decision in the Supreme Court of Guam, "*In re Request of Governor Camacho Relative to Interpretation and Application of Section 11 of Organic Act of Guam, 2003 Guam 16,*" recognizes that constitutional debt limitations comprehend a debt pledging for repayments contemplating a levy on property tax to retire debt. In the Supreme Court opinion, the issuance of bonds secured by the tobacco settlement money, are not considered "debts" because they are secured by a "special fund" which is not funded by revenue derived from taxation. That obligation will not burden the general fund and the purpose of Bill Number 74 (EC) is analogous to that. The Legal Counsel indicates that the facility is not indebtedness because it will be secured by the revenue generated by Rural Telephone Bank stock or equivalent converted funds. It will be paid from the dividends and interest derived from that secured collateral.

Mr. Tony Lamorena, Senior Assistant to the Governor on Policy, Communications and Research submitted testimony in support of the Bill

Number 74 (EC). He requests that the measure be reported out of the Committee as it is an urgent matter in addressing court imposed deadlines that the government faces. Equally important are the benefits to Mental Health improving care and services which is an obligation of the government for those most in need.

The Chairman adjourned the hearing at 2:45 p.m.

III. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee finds that *I Maga'lahaen Guahan's* request to authorize a Ten Million Dollars (\$10,000,000) line of credit facility for the purpose of funding public health, safety and educational assistance programs as appropriated in Public Law Number 27-106 and 27-107, as amended, and the compliance with the Consent Decree in Civil Case No. 02-00022 and the permanent injunction in Civil Case No. CIVOI-00041, is critical in addressing the current cash deficiencies of the government of Guam.

According to the Attorney General, the bill appears to violate §1423(a) of the Organic Act of Guam by exceeding the debt ceiling. In a lower court decision in *Barrett-Anderson vs. Crisostomo, 1989*, the court concurs with the government in using the appraised land value in computing Guam's debt ceiling. The Attorney General's Office challenges that decision and has appealed it to the Ninth Circuit Court.

However, *I Maga'lahaen Guahan's* Legal Counsel contends that the Guam Supreme Court recently interpreted the term "indebtedness" as it relates to the Organic Act. The term in its Constitutional sense should be viewed in its broad and general meaning or all contractual obligations to pay in the future for considerations presently received.

Citing a Declaratory Judgement decision in the Supreme Court of Guam, "*In re Request of Governor Camacho Relative to Interpretation and Application of Section 11 of Organic Act of Guam, 2003 Guam 16*," recognizes that constitutional debt limitations comprehend a debt pledging for repayments contemplating a levy on property tax to retire debt. The proposed facility contained within the bill is not considered a "debt" because it is secured by a "special fund" on revenue not derived from taxation. The obligation will not burden the general fund.

The Committee finds that the proposed facility is not indebtedness because it will be secured by the revenue generated by Rural Telephone Bank stock or equivalent converted funds and not from the general fund. Repayment will be

completed through the dividends and interest derived from that secured collateral.

I Liheslaturan Guáhan recognizes that the Supreme Court of Guam [1] concluded that the issuance of bonds authorized through the enactment of Public Law 27-19 on April 28, 2003, would not violate the debt limitation clause of 48 USC, §1423(a), Organic Act of Guam.

The Committee on Finance, Taxation and Commerce finds that *I Maga'lahen Guáhan's* request for a \$10 million LOC facility is not only of great benefit for our people but also an urgent matter in meeting with court imposed deadlines. The measure will provide \$4.8 million to meet the requirements of the landfill Consent Decree and an additional \$3.6 million for the permanent injunction towards improving patient care and facilities at the Department of Mental Health and Substance Abuse. The remaining amount is programmed in meeting with the government's financial needs.

The committee recommends that a substitute bill be prepared incorporating the findings and recommendations of the Committee. The substitute bill is submitted herewith.

The Committee on Finance, Taxation and Commerce to which Bill No. 74 (EC), **"AN ACT AUTHORIZING I MAGA'LAHEN GUÁHAN TO BORROW OR TO ARRANGE FOR A LINE OF CREDIT NOT TO EXCEED TEN (10) MILLION DOLLARS WITH LOCALLY LICENSED FINANCIAL INSTITUTIONS, GOVERNMENT OF GUAM AUTONOMOUS AGENCIES, OR GOVERNMENT OF GUAM INSTRUMENTALITIES,"** was referred, does hereby submit its findings and recommendations to *I Mina' Bente Ocho Na Liheslaturan Guáhan* **TO PASS** Bill No. 74(EC) as *Substituted*.

Znd
4-7-05
4-7/05 PAF
Znd
4-8-05

MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
2005 (FIRST) Regular Session

Bill No. 74 (EC)
As Substituted by the Committee on
Finance, Taxation and Commerce

Introduced by:

Committee on Calendar
by request of *I Maga'lahaen*
Guåhan, the Governor of
Guam, in accordance with
the Organic Act of Guam.

**AN ACT AUTHORIZING *I MAGA 'LAHEN*
GUÅHAN TO BORROW OR TO ARRANGE FOR
A LINE OF CREDIT NOT TO EXCEED TEN (10)
MILLION DOLLARS ^(10,000,000) WITH LOCALLY
LICENSED FINANCIAL INSTITUTIONS,
GOVERNMENT OF GUAM AUTONOMOUS
AGENCIES, OR GOVERNMENT OF GUAM
INSTRUMENTALITIES.**

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

2 **Section 1. Authority to Borrow.** *I Maga'lahaen Guahan*, on behalf
3 of the government of Guam, is authorized to borrow or arrange for a
4 line of credit not to exceed Ten Million Dollars (\$10,000,000), and to
5 execute a financial agreement with any bank or commercial lending
6 institution licensed on Guam, government of Guam autonomous
7 agency or any other instrumentality of the government of Guam. The
8 terms of the loan or line of credit shall include the following:

9 (a) *I Maga'lahaen Guahan* shall use Ten Million Dollars
10 (\$10,000,000) of such loan for the purpose of funding Public Health,

1 Safety and Educational assistance programs as appropriated in Public
2 Law Number 27-106 and 27-107, as amended, and compliance with
3 the Consent Decree in Civil Case No. 02-00022 and the permanent
4 injunction in Civil Case No. CIVOI-OO041;

5 (b) prepaid charges shall not be levied by the bank or entity for
6 opening a line of credit;

7 (c) interest derived from the financial agreement shall be
8 exempt from taxation by the government of Guam;

9 (d) all terms of the financial agreement shall be negotiated by *I*
10 *Maga'lahaen Guahan* in the best interest of the People of Guam;

11 (e) the interest rate shall be negotiated between *I Maga'lahaen*
12 *Guahan* and the lender, such interest rate shall not exceed seven
13 percent (7%) per annum and shall be computed on a 365 days
14 calendar year upon the actual amount extended to the government,
15 and to be paid annually;

16 (f) the loan or line of credit will be secured by a pledge of Rural
17 Telephone Bank (RTB) stocks and or any converted equivalent funds.

18 (g) any money borrowed shall be repaid within five (5) years
19 with the option to extend for another five (5) years, and in no case
20 shall any amount borrowed be financed, resulting in a repayment
21 more than five (5) years after the loan is made unless the option to
22 extend is exercised; and;

23 (h) funds, necessary for the repayment of the principal, interest

1 and other costs associated with the financing, are to be paid from the
2 dividends and or other income derived from the secured collateral.
3 Interest earned on collateral ~~paid~~ to be sufficient to cover interest due
4 on the line of credit.

5 **Section 2. Severability.** If any provision of this Act or its
6 application to any person or circumstances is held invalid, the
7 invalidity shall ^{not} affect other provisions or applications of this Act
8 which can be given effect without the invalid provision (or) *not*
9 application, and to this end the provisions of this Act are severable. *stabilis*

Introduced

FEB 23 2005

1 MINA 'BENTE OCHO NA LIHESLATURAN GUAHAN
2 TWENTY- EIGHTH GUAM LEGISLATURE
3 2005 () Regular Session
4
5
6

7 Bill no. 74 (EC)
8

9 Introduced by:

Committee on Calendar

by request of I Maga'lahaen Guahan
the Governor of Guam in accordance
with the Organic Act of Guam

10
11
12
13
14
15 **AN ACT AUTHORIZING I MAGA'LAHEN GUAHAN TO BORROW OR**
16 **TO ARRANGE FOR A LINE OF CREDIT NOT TO EXCEED TEN (10)**
17 **MILLION DOLLARS WITH LOCALLY LICENSED FINANCIAL**
18 **INSTITUTIONS, GOVERNMENT OF GUAM AUTONOMOUS**
19 **AGENCIES, OR GOVERNMENT OF GUAM INSTRUMENTALITIES.**
20

21 **Section 1. Authority to Borrow.**

22 *I Maga'lahaen Guahan*, on behalf of the government of Guam, is authorized to
23 borrow or arrange for a line of credit not to exceed Ten Million Dollars (\$10,000,000),
24 and to execute a financial agreement with any bank or commercial lending institution
25 licensed on Guam, government of Guam autonomous agency or any other instrumentality
26 of the government of Guam. The terms of the loan or line of credit shall include the
27 following:

28 (a) *I Maga'lahaen Guahan* shall use Ten Million Dollars (\$10,000,000) of
29 such loan for the purpose of funding Public Health, Safety and Educational assistance
30 programs as appropriated in Public Law Number 27-106 and 27-107, as amended, and
31 compliance with the Consent Decree in Civil Case No. 02-00022 and the permanent
32 injunction in Civil Case No. CIV01-00041;

33 (b) prepaid charges shall not be levied by the bank or entity for opening a line
34 of credit;

35 (c) interest derived from the financial agreement shall be exempt from
36 taxation by the government of Guam;

1 (d) all terms of the financial agreement shall be negotiated by *I Maga'laha*
2 *Guahan* in the best interest of the People of Guam;

3 (e) the interest rate shall be negotiated between *I Maga'laha* *Guahan* and
4 the lender, such interest rate shall not exceed seven percent (7%) per annum and shall be
5 computed on a 365 days calendar year upon the actual amount extended to the
6 government, and to be paid annually;

7 (f) the loan will be secured by a pledge of Rural Telephone Bank (RTB)
8 stocks and or any converted equivalent funds.

9 (g) any money borrowed shall be repaid within five (5) years with the option
10 to extend for another five (5) years, and in no case shall any amount borrowed be
11 financed, resulting in a repayment more than five (5) years after the loan is made unless
12 the option to extend is exercised; and

13 (h) funds, necessary for the repayment of the principal, interest and other
14 costs associated with the financing, are to be paid from the dividends and or other income
15 derived from the secured collateral. Interest paid to be sufficient to cover interest due on
16 the line of credit.

17 **Section 2. Severability.**

18 If any provision of this Act or its application to any person or circumstances is
19 held invalid, the invalidity shall not affect other provisions or applications of this Act
20 which can be given effect without the invalid provision or application, and to this end the
21 provisions of this Act are severable.

Bureau of Budget & Management Research
Fiscal Note of Bill No. 74 (EC)

Senator Edward J.B. Calvo
ACKNOWLEDGEMENT RECEIPT

Bill Title (Preamble):
An Act Authorizing *I Mags'Lohen Guahan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Initially Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities.

Rcv'd by: [Signature]
Time: _____
Date: 3-17-05

Department/Agency Appropriation Information	
Dept/Agency Affected: <u>All Agencies</u>	Dept/Agency Head: <u>Governor Felix P. Camacho</u>
Department's General Fund (GF) appropriation(s) to date:	\$0
Department's Other Fund (specify):	Appropriation(s) to date: \$0
Total Department/Agency Appropriation(s) to date:	\$0

Fund Source Information of Proposed Appropriation			
	General Fund:	Other (specify):	Total:
FY 2005 Adopted Revenues	\$447,441,000	\$100,502,170	\$547,943,170
FY Appro. to P.L. 106/107 thru 28-06	(\$447,821,707)	(\$100,702,530)	(\$548,524,237)
Sub-total:	(\$380,707)	(\$200,360)	(\$581,067)
Less appropriation in Bill	\$0	\$0	\$0
Total:	(\$380,707)	(\$200,360)	(\$581,067)

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of Current FY (if applicable)	Second Year	Third Year	Fourth Year	Fifth Year
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Other Fund:	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? // Yes /X/ No
If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A // Yes // No
If no, what is the additional amount required? \$ _____
3. Does the Bill establish a new program/agency? // Yes /X/ No
If yes, will the program duplicate existing programs/agencies? /X/ N/A // Yes // No
Is there a federal mandate to establish the program/agency? // Yes // No
4. Will the enactment of this Bill require new physical facilities? // Yes /X/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: // Yes /X/ No
// Requested agency comments not received by due date // Other:

Analyst: Joe Cervino **Date:** 3/17/05 **Director:** Carlos P. Bordallo **Date:** 3/17/05
Carlos P. Bordallo, Acting BMBR

Footnotes:
The Bill proposes to allow the Governor to execute a financial agreement for a Line of Credit (LOC) of up to \$10,000,000 with any bank or commercial lending institution licensed on Guam. This LOC will be secured by a pledge of Rural Telephone Bank stocks, or any converted equivalent funds and will be negotiated so that the interest income or dividends earned will be sufficient to pay interest payments due on the LOC. Therefore, no funds will be required from the General Fund. The LOC will be initially negotiated for a term of five (5) years with an option to extend for another five years. The Bill also allows for the use of the proceeds for Public Health, Safety, and Educational assistance programs, as appropriated per Public Laws 27-106 and 27-107, and funding requirements for the Consent Decree (Ordot Landfill) and Permanent Injunction (DMTISA/DISTD).



MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

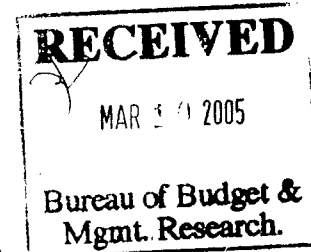
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E-Mail address: senatorcalvo@hotsheet.com
155 Hesler Street Hagåtña, Guam 96910

Telephone: (671) 475-8801
Facsimile: (671) 475-8805

March 09, 2005

MEMORANDUM



To: Mr. Carlos Bordallo, Acting Director
Bureau of Budget Management and Research

From: Chairman, Committee on Finance, Taxation, and Commerce

Subject: REQUEST FOR FISCAL NOTE

Pursuant to 2 GCA §9102, I respectfully request BBMR to prepare a fiscal note for the following measure:

Bill 74 (EC), "An Act Authorizing *I Maga'lahen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities."

Attached is a copy of Bill 74 (EC) for BBMR's analysis. The fiscal note shall be provided to the Standing Committee within fourteen days from receipt of this request as required by 2 GCA §9105. Please call my office should you require additional information.

Si Yu'os Ma'åse'!

Senator Edward J.B. Calvo

Attachments



MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE
OFFICE OF FINANCE AND BUDGET

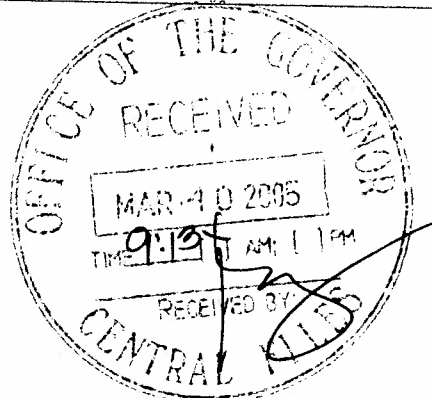
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Facsimile: (671) 475-8805

March 09, 2005

The Honorable Felix P. Camacho
I Maga'låhen Guåhan
Office of the Governor
P.O. Box 2950
Hagåtña, Guam 96932



Reference: Committee on Finance, Taxation, and Commerce Public Hearing for Bill 74 (EC).

Håfa adai, Governor Camacho:

The Committee on Finance, Taxation, and Commerce has scheduled a public hearing on Thursday, March 17, 2005, 9:30 a.m., at *I Liheslaturan Guåhan's* Public Hearing Room. The *Committee* will receive written and verbal testimonies from the Public regarding Bill 74 (EC), "**An Act Authorizing *I Maga'låhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities.**"

The *Committee* encourages verbal testimony, however, written testimony is preferred and should be submitted to my office by 12 noon the day prior to the public hearing. I solicit any comments from any entity within the Executive Branch affected by Bill 74 (EC). Please make the appropriate arrangements with your cabinet. Should you be unable to attend, please contact my office at 475-8801 as soon as possible.

Si Yu'os Ma'åse'!

Senator Edward J.B. Calvo

Attachments



MINA' BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

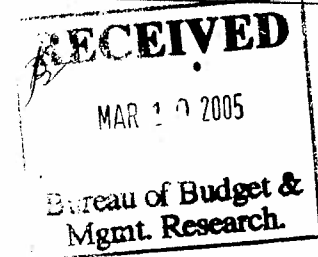
OFFICE OF FINANCE AND BUDGET

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Facsimile: (671) 475-8805

March 09, 2005



Mr. Carlos Bordallo
Acting Director
Bureau of Budget Management and Research
P.O. Box 2950
Hagåtña, Guam 96932

Reference: Committee on Finance, Taxation, and Commerce Public Hearing for Bill 74 (EC).

Häfa adai, Mr. Bordallo:

The Committee on Finance, Taxation, and Commerce has scheduled a public hearing on Thursday, March 17, 2005, 9:30 a.m., at *I Liheslaturan Guåhan's* Public Hearing Room. The *Committee* will receive written and verbal testimonies from the Public regarding Bill 74 (EC), "**An Act Authorizing *I Maga'lahren Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities.**"

The *Committee* encourages verbal testimony, however, written testimony is preferred and should be submitted to my office by 12 noon the day prior to the public hearing. Should you be unable to attend, please contact my office at 475-8801 as soon as possible.

Si Yu'os Ma'åse'!

Senator Edward J.B. Calvo

Attachments



MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
TWENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

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Telephone: (671) 475-8801
Facsimile: (671) 475-8805

March 09, 2005

Ms. Lourdes Perez
Director
Department of Administration
P.O. Box 2950
Hagåtña, Guam 96932

Reference: Committee on Finance, Taxation, and Commerce Public Hearing for Bill 74 (EC).

Håfa adai, Ms. Perez:

The Committee on Finance, Taxation, and Commerce has scheduled a public hearing on Thursday, March 17, 2005, 9:30 a.m., at *I Liheslaturan Guåhan's* Public Hearing Room. The *Committee* will receive written and verbal testimonies from the Public regarding Bill 74 (EC), "**An Act Authorizing *I Maga'laken Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities.**"

The *Committee* encourages verbal testimony, however, written testimony is preferred and should be submitted to my office by 12 noon the day prior to the public hearing. Should you be unable to attend, please contact my office at 475-8801 as soon as possible.

Si Yu'os Ma'åse'!

Senator Edward J.B. Calvo

Attachments



MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
SEVENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

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Telephone: (671) 475-8801
Facsimile: (671) 475-8805

March 09, 2005

Mr. Artemio Illagan
Director
Department of Revenue and Taxation
13-1 Mariner Drive
Tiyán, Guam 96913

Reference: Committee on Finance, Taxation, and Commerce Public Hearing for Bill 74 (EC).

Håfa adai, Mr. Illagan:

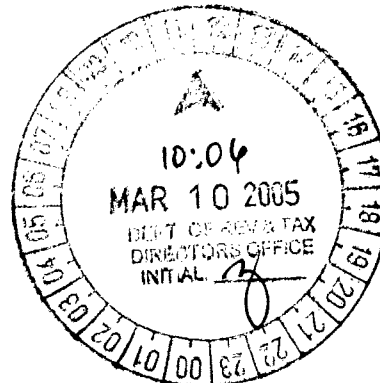
The Committee on Finance, Taxation, and Commerce has scheduled a public hearing on Thursday, March 17, 2005, 9:30 a.m., at *I Liheslaturan Guåhan's* Public Hearing Room. The *Committee* will receive written and verbal testimonies from the Public regarding Bill 74 (EC), "**An Act Authorizing *I Maga'láhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities.**"

The *Committee* encourages verbal testimony, however, written testimony is preferred and should be submitted to my office by 12 noon the day prior to the public hearing. Should you be unable to attend, please contact my office at 475-8801 as soon as possible.

Si Yu'os Ma'åse'!

Senator Edward J.B. Calvo

Attachments





MINA BENTE OCHO NA LIHESLATURAN GUÅHAN
WENTY-EIGHTH GUAM LEGISLATURE

Senator Edward J.B. Calvo
SECRETARY OF THE LEGISLATURE

Chairman
COMMITTEE ON FINANCE, TAXATION & COMMERCE

OFFICE OF FINANCE AND BUDGET

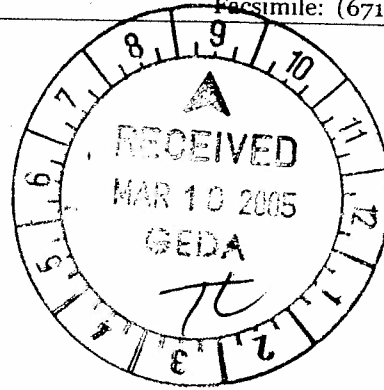
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Telephone: (671) 475-8801
Facsimile: (671) 475-8805

March 09, 2005

Mr. Gerry Perez
Administrator
Guam Economic Development and Commerce Authority
ITC Building Suite 511
Tamuning, Guam 96913



Reference: Committee on Finance, Taxation, and Commerce Public Hearing for Bill 74 (EC).

Håfa adai, Mr. Perez:

The Committee on Finance, Taxation, and Commerce has scheduled a public hearing on Thursday, March 17, 2005, 9:30 a.m., at *I Liheslaturan Guåhan's* Public Hearing Room. The Committee will receive written and verbal testimonies from the Public regarding Bill 74 (EC), "An Act Authorizing *I Maga'lahren Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities."

The Committee encourages verbal testimony, however, written testimony is preferred and should be submitted to my office by 12 noon the day prior to the public hearing. Should you be unable to attend, please contact my office at 475-8801 as soon as possible.

Si Yu'os Ma'åse'!

Senator Edward J.B. Calvo

Attachments



March 17, 2005

Confirmation and Public Hearing Agenda

1. **Bill 16 (LS):** "An Act To Amend § 90100, § 90103, § 90107, And Add A New Subsection (6) To § 90105, Chapter 90, Division 4, Of Title 10, Guam Code Annotated, Relative To The Regulation Of Smoking Activities, To Be Known As The "Natasha Protection Act"
2. **Bill 74 (EC):** "An Act Authorizing *I Maga'låhen Guåhan* To Borrow Or To Arrange For A Line Of Credit Not To Exceed Ten (10) Million Dollars With Locally Licensed Financial Institutions, Government Of Guam Autonomous Agencies, Or Government Of Guam Instrumentalities"
3. Appointment of Mr. Carlos E.P. Bordallo, Jr. to serve as the Director of the Bureau of Budget Management and Research
4. Appointment of Mr. Edward John Calvo to serve as a Member of the Guam Economic Development and Commerce Authority Board

Individuals wishing to submit verbal/written testimonies, please sign your name on the sign-in sheet available at the Legislative Staff Table.

TESTIMONY ON BILL 74
March 17, 2005

Mr. Chairman and honored Senators, my name is Andy Jordanou Banking & Insurance Commissioner and newly appointed Chief Financial Advisor to the Governor and I am here to support and clarify Bill 74 along with minor changes to the language within its body.

This Facility will be utilized as a means of providing funds for the purpose of satisfying essential cash deficiencies. This proposed financing will be primarily a line of credit and will be supported with either Rural Telephone Bank Stock presently held under the GTA sale arrangement or with converted equivalent funds. As indicated under the sale of GTA, an Agreement was executed to hold sufficient funds to cover a loan owed to Rural Utilities Service (USA) and matures on March 31, 2005 possible extension can be requested in order for consideration of a debt relief request and will be totally satisfied with the held sale proceeds of \$104 Million which these stocks are also held. The stock value is approximately \$11.8 million (slight adjustment when exercised). Once released and if our Government advisors, GEDCA and myself determine that the best return will be to convert to equivalent securities, this Bill will allow us to obtain the best possible return along with the proposed facility. For example, if we arrange a 6% return on our investment and a facility with an accrued interest rate of 7%, then we will have sufficient interest earned to offset interest owed; given the outstanding principal is set at \$10 million. If we arrange a lower investment rate of return then the outstanding principal will not be increased causing the interest owed to be still lower than what is earned on our investment. Keep in mind interest owed is only on the outstanding balance and not on the entire \$10 million line of credit.

In order not be classified as a Government debt obligation, this facility will be repaid outside of the General Fund as we were guided by our Bond council. In addition, we will make sure an account is created to ensure no commingling with the General Fund i.e. similar to a Trust arrangement account.

We will therefore be consistent with Government policy in having GEDCA handle the RFP and will make sure that the first priority be given to our local financial institutions to bid not only on the collateral but also on the credit facility. If we do not receive any offers locally, then we will request our New York advisors to provide assistance outside of Guam.

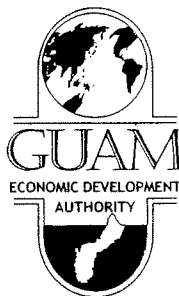
Corrections:

Section 1 (f) insert after loan "or line of credit"

Section 1 (h) change second sentence as "Interest earned on collateral to be sufficient to cover interest due on the line of credit"

With the information as outlined, I trust will meet with your acceptance.

Andy Jordanou

**Bill No. 74 (EC)**

AN ACT AUTHORIZING I MAGA 'LAHEN GUAHAN TO BORROW OR TO ARRANGE FOR A LINE OF CREDIT NOT TO EXCEED TEN (10) MILLION DOLLARS WITH LOCALLY LICENSED FINANCIAL INSTITUTIONS, GOVERNMENT OF GUAM AUTONOMOUS AGENCIES, OR GOVERNMENT OF GUAM INSTRUMENTALITIES

Public Hearing Testimony of Gerald S.A. Perez, Administrator
Guam Economic Development and Commerce Authority (GEDCA)
March 17, 2005

Good morning, Senator Calvo, and members of the Committee on Finance, Taxation and Commerce, Ladies and Gentlemen. My name is Gerald Perez, Administrator of the Guam Economic Development and Commerce Authority. Thank you for inviting GEDCA to provide testimony on Bill No. 74 (EC), which authorizes *I Maga 'lahen Guahan* to borrow or arrange a line of credit not to exceed Ten Million Dollars (\$10,000,000.00) for the purpose of funding Public Health, Safety and Education assistance programs for a term of up to five (5) years with an option to extend for another five (5) years.

The loan will be secured by a pledge of the Rural Telephone Bank (RTB) stocks and or any converted equivalent funds. The obligation to pay the principal, interest and other costs associated with the financing shall be a limited obligation payable solely from the dividends and/or other income and other proceeds derived from the pledged collateral.

It is my understanding that the RTB stocks are currently being used as collateral to secure the Guam Telephone Authority's (GTA's) \$104 million obligation to the Rural Utilities Services (RUS). This financial asset is the property of GTA, (now the Government of Guam as its successor), but it cannot be transferred to any other party or be used as collateral under the current conditions. However, once the outstanding amount of this loan is paid or if the debt is forgiven, the Government can then use these stocks as pledge for the loan or line of credit described in Bill No. 74. Since the obligation to pay the principal and interest of this proposed financing is limited to this funding source, it will be treated as a limited obligation of the government of Guam.

Thank you for the opportunity to comment on this bill.

Gerald S.A. Perez
Administrator