

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN

2019 (FIRST) Regular Session

LEGISLATIVE SESSION VOTING RECORD

Bill No. 152-35 (COR) As substituted by the Committee on Heritage and the Arts, Parks, Guam Products, Hagåtña Revitalization, Self-Determination, and Regional Affairs.	Speaker Antonio R. Unpingco Legislative Session Hall Guam Congress Building October 31, 2019					
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NAME	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent	Excused
Senator William M. CASTRO	✓					
Senator Régine Biscoe LEE	✓	I				
Senator Kelly G. MARSH (TAITANO), PhD	✓					
Senator James C. MOYLAN		✓				
Senator Louise B. MUÑA	✓	II				
Speaker Tina Rose MUÑA BARNES	✓					
Vice Speaker Telen Cruz NELSON		II ✓				
Senator Sabina Flores PEREZ	✓	I				
Senator Clynton E. RIDGELL	✓					
Senator Joe S. SAN AGUSTIN	✓					
Senator Amanda L. SHELTON	✓	I				
Senator Telo T. TAITAGUE		✓				
Senator Jose "Pedo" TERLAJE	✓					
Senator Therese M. TERLAJE		✓				
Senator Mary Camacho TORRES	✓	I				

TOTAL:	11	4			
	Aye	Nay	Not Voting/ Abstained	Out During Roll Call	Absent Excused

CERTIFIED TRUE AND CORRECT:



REMNÆ V. C. MENO
Clerk of the Legislature

I = Pass

I MINA'TRENTAI SINGKO NA LIHESLATURAN GUÅHAN
2019 (FIRST) Regular Session

Bill No. 152-35 (COR)

As substituted by the Committee on Heritage and the Arts,
Parks, Guam Products, Hagåtña Revitalization,
Self-Determination, and Regional Affairs;
and amended on the Floor.

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Introduced by:

Tina Rose Muña Barnes
Kelly Marsh (Taitano), PhD
Jose "Pedo" Terlaje

**AN ACT TO *REPEAL* ARTICLE 4 OF CHAPTER 50,
AND TO *ADD* A NEW ARTICLE 2 AND A NEW §
3103(h) TO CHAPTER 3, ALL OF TITLE 12, GUAM
CODE ANNOTATED, RELATIVE TO
ESTABLISHING THE GUAM FILM OFFICE
WITHIN THE GUAM EDUCATIONAL
TELECOMMUNICATIONS CORPORATION.**

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

2 **Section 1.** Article 4 of Chapter 50, Title 12, Guam Code Annotated, is
3 hereby *repealed*.

4 **Section 2.** A new Article 2 is *added* to Chapter 3, Title 12, Guam Code
5 Annotated, to read:

“ARTICLE 2

GUAM FILM OFFICE

6 § 3201. Definitions.

7 § 3202. Guam Film Office.

8 § 3203. Rules and Regulations.

- 1 § 3204. Powers and Duties.
2 § 3205. Guam Film Office Fund.
3 § 3206. Permits Required.
4 § 3207. General Exemptions.
5 § 3208. Local Production Companies Exempt.
6 § 3209. Applicants and Issuance.
7 § 3210. Indemnification of Government Against Liability.
8 § 3211. Insurance and Bonding Required.
9 § 3212. Effective Date.
10 § 3213. Severability.

11 **§ 3201. Definitions.**

12 (a) *Administrator* means the Administrator of the Guam Film Office, who
13 *shall* be the Station Manager of the Guam Educational Telecommunications
14 Corporation or his/her designee.

15 (b) *Board* means the Guam Educational Telecommunications Corporation
16 Board of Trustees.

17 (c) *Charitable or student films* means commercials, motion pictures,
18 television, videotapes, or still photography produced by a nonprofit organization that
19 is registered with the Guam Department of Revenue and Taxation or the Internal
20 Revenue Service as a charitable organization, or is produced by students of an
21 educational institution, and for which no person, directly or indirectly, shall receive
22 a profit from the marketing and production of the film or from showing the films,
23 tapes, or photos.

24 (d) *Commercial films* means and includes all activity attendant to filming
25 any entertainment or advertising programs for any media now known or hereafter
26 created.

1 (e) *Committee* means an Advisory Committee established by the Station
2 Manager.

3 (f) *Contractors' Registry* means a list of all Guam licensed businesses, and
4 their contact information, who provide services to companies engaged in the film
5 industry.

6 (g) *Corporation* means the Guam Educational Telecommunications
7 Corporation.

8 (h) *Filming/production* means and includes all activity attendant to staging
9 or shooting commercial motion pictures, television shows or programs, and
10 commercial still photography, videotapes, computer-based programs, or other visual
11 reproduction technology now known or hereafter created. The period of filming
12 includes the set-up, strike, and time of photography.

13 (i) *Government* means the government of Guam, its authorized agents,
14 officers, representatives, and employees of departments, agencies, autonomous
15 agencies, offices, or instrumentalities.

16 (j) *News media* means the photographing, filming or videotaping for the
17 purpose of spontaneous, unplanned television news broadcasts, or reporting for print
18 media by journalists, reporters, photographers, or camera operators.

19 (k) *Person* means an individual or business.

20 (l) *Private property* means any property *not* owned by the government of
21 Guam on which filming would *not* interfere with the public's right-of-way, access,
22 or safety.

23 (m) *Station Manager* means a person appointed in accordance with § 3107
24 of this Chapter.

25 (n) *Studio* means a fixed place of business where filming activities (motion
26 or still photography) are regularly conducted upon the premises.

1 **§ 3202. Guam Film Office.**

2 There is hereby established the Guam Film Office as a division within the
3 Guam Educational Telecommunications Corporation. The Station Manager of the
4 Corporation *shall* be responsible for the administration of the Guam Film Office and
5 serve as the fiduciary to the Corporation. The Station Manager *shall* submit a
6 strategic plan to the Board for approval *no later than* thirty (30) days after the
7 adoption of rules and regulations. The plan *shall* be updated every three (3) years.

8 **§ 3203. Rules and Regulations.**

9 Rules and Regulations. The Station Manager *shall* establish an Advisory
10 Committee that is responsible for the promulgation of rules, regulations, and fees to
11 govern the form, time, and location of filming activity set forth within Guam. The
12 composition of the Advisory Committee *shall* be as follows:

13 (a) no less than three (3) individuals and representatives of non-
14 governmental organizations that have substantial experience in the film,
15 video, and media fields;

16 (b) one (1) member *shall* be *I Ge'helo'* (the Chair) or a designated
17 alternate from *I Kumision I Fino' CHamoru yan I Fina'nâ'guen I Historia yan*
18 *I Lina'la' I Taotao Tâno;*

19 (c) one (1) member *shall* be the Guam Historic Preservation Officer
20 or his/her designee;

21 (d) one (1) member *shall* be from the Guam Visitors Bureau; and

22 (e) one (1) member *shall* be from the Guam Economic Development
23 Authority.

24 The Committee *shall* allow for the full participation of any member of
25 the public during its deliberations. The rules and regulations *shall* also provide
26 for the issuance of permits, notification of permit denial, and a process of

1 appeal. The rules and regulations may also include requirements for non-local
2 production companies to provide local apprenticeships within the film
3 industry during the course of film production on Guam. The rules, regulations,
4 and fees *shall* be adopted by the Board of the Guam Educational
5 Telecommunications Corporation and comply with the provisions of the
6 Administrative Adjudication Law, 5 GCA Chapter 9, within ninety (90) days
7 upon the enactment of this Article. The rules and regulations *shall* be based
8 upon the following criteria:

- 9 (a) the health and safety of all persons;
- 10 (b) avoidance of undue disruption of all persons within the affected
11 area;
- 12 (c) the safety of property in Guam;
- 13 (d) traffic congestion at particular locations in Guam; and
- 14 (e) to foster to the maximum extent possible, the accuracy or
15 appropriateness of the presentation, interpretation, and/or usage of tangible
16 and intangible aspects of the *CHamoru* culture and heritage that may be
17 practicable in the production of films, videos, audio recordings, music
18 recordings, computer-generated imagery and other media-related products.

19 **§ 3204. Powers and Duties.**

20 The Guam Film Office *shall* have the following powers and duties:

- 21 (a) to promote, encourage and advertise the use of Guam facilities
22 and services for the production of films, videos, television programs, audio
23 recordings, music recordings, computer-generated imagery and other media-
24 related products;
- 25 (b) to provide support services to visiting and local production
26 companies, including assistance to film, video, audio, and media producers in

1 securing necessary permits or permissions from government of Guam
2 authorized agents, officers, representatives and employees of departments,
3 agencies, autonomous agencies, offices or instrumentalities;

4 (c) to develop and update annually a resource guide of viable filming
5 locations in Guam, available video and media production facilities, permitting
6 requirements, and tax incentives;

7 (d) to work in coordination with the Guam Visitors Bureau to
8 conduct and attend trade shows and production workshops to promote Guam
9 to the national and international film industries;

10 (e) to promote and attract business activities in film, video,
11 computer-generated and other media production activity in Guam, and take
12 any other administrative action which may improve Guam’s film, video and
13 media production industries in national and international markets;

14 (f) to work in coordination with *I Kumision I Fino' CHamoru yan I*
15 *Fina'nã'guen I Historia yan I Lina'la' I Taotao Tãno* to ensure, to the
16 maximum extent possible, the accuracy or appropriateness of the presentation,
17 interpretation, and usage of tangible and intangible aspects of the *CHamoru*
18 culture and heritage in the production of films, videos, audio recordings,
19 music recordings, computer-generated imagery and other media-related
20 products;

21 (g) to accept any funds, gifts, donations, bequests or grants of funds
22 from private, federal, and public sources for the purposes of this Article;

23 (h) to create a “one stop permitting” process for the film industry by
24 formulating and proposing rules and regulations for standardized permits
25 which *shall* be used by the government of Guam, its authorized agents,
26 officers, representatives and employees of departments, agencies,

1 autonomous agencies, offices, or instrumentalities, in accordance with the
2 requirements set forth in this Article;

3 (i) to work in coordination with the Guam Historic Preservation
4 Officer to ensure the integrity of historic and cultural sites;

5 (j) to require at its discretion, non-local production companies to
6 provide local apprenticeships within the film industry during the course of
7 film production on Guam. Such requirements may take into account the size
8 of the production and other factors the Guam Film Office deems appropriate;
9 and

10 (k) to establish a Contractors' Registry, which *shall* be provided to
11 all potential film companies upon written request and made available via the
12 Guam Film Office's website.

13 **§ 3205. Guam Film Office Fund.**

14 There is established a Fund to be known as the Guam Film Office Fund, which
15 *shall* be administered by the Board for the Guam Film Office and be maintained
16 separate and apart from any other funds of the government of Guam, including the
17 General Fund. Independent records and accounts *shall* be maintained in connection
18 therewith. All proceeds deposited in the Guam Film Office Fund *shall* be
19 appropriated to the Corporation for the administration, equipment, operations, the
20 development of facilities, and for other purposes necessary to carry out this Article.
21 All funds collected from fees, charges, or fines levied pursuant to this Article *shall*
22 be deposited in the Guam Film Office Fund, and all interest earned by the Guam
23 Film Office Fund *shall* accrue. Any unencumbered funds remaining in the Guam
24 Film Office Fund at the end of each fiscal year *shall* remain in the Fund. The Guam
25 Film Office Fund *shall* be subject to audits by the Office of Public Accountability.

26 **§ 3206. Permits Required.**

1 (a) Permit Required. No person shall use any government street, alley,
2 sidewalk, park, pier, way, or other public property owned or controlled by the
3 government of Guam for the purpose of making commercial films without first
4 applying for and receiving a permit from the Guam Film Office Administrator or
5 his/her designee; provided, that the provisions of this Article *shall not* apply to or be
6 construed to affect (1) news media; and (2) filming solely for private/family use.

7 (b) No person shall use any private property for the purpose of making
8 commercial films without first applying for and receiving a permit from the Guam
9 Film Office Administrator or his/her designee. Notwithstanding the foregoing, the
10 provisions of this Article *shall not* apply to or be construed to affect the following
11 filming on private property:

12 (1) filming which requires *no* parking variances and uses *no* public
13 property or rights-of-way on public property;

14 (2) filming which *does not* impair the quiet enjoyment of the
15 surrounding properties;

16 (3) filming which *does not* involve the use of any pyrotechnic
17 devices;

18 (4) a licensed business which regularly employs a licensed
19 pyrotechnic operator;

20 (5) filming by news media;

21 (6) filming solely for private/family use; or

22 (7) filming which *does not* interfere with the public's use of
23 government property.

24 (c) *Except* as provided herein, each applicant must comply with all local
25 and federal laws and regulations and must obtain all necessary permits and licenses
26 as a precondition for the commencement of commercial film production hereunder.

1 Thereafter, the permittee *shall* remain in full compliance with all local and federal
2 laws, regulations, permits and licenses throughout the filming.

3 (d) Upon reasonable notice by the applicant, the Administrator or his/her
4 designee is authorized, upon showing of good cause, to change the conditions under
5 which a permit has been issued; provided, that the requirements of this Article are
6 met and the government of Guam department, agency, autonomous agency, office
7 or instrumentality can undertake all necessary administrative review within the time
8 requested.

9 **§ 3207. General Exemptions.**

10 The provisions of this Article *shall not* apply to or affect:

11 (a) Guam Educational Telecommunications Corporation and
12 companies providing services or partnering on station projects.

13 (b) News Media. Reporters, photographers, or camera operators in
14 the employ of a newspaper, news service, or similar entity, engaged in the on-
15 the-spot broadcasting of news events concerning those persons, scenes or
16 occurrences which are in the news and of general public interest, including
17 sporting events.

18 (c) Private/Family Use. The filming or videotaping of motion
19 pictures solely for private/family use.

20 (d) Charitable Films and Student Films. Projects produced by a
21 nonprofit organization that is registered with the Guam Department of
22 Revenue and Taxation or the Internal Revenue Service as a charitable
23 organization or produced by a student(s) of an educational institution.

24 (e) Small Crews. If the crew *does not* exceed four (4) persons and
25 there is *no* extensive use of props, equipment, cast or other participants, the
26 small crew *shall* be exempt if the following conditions are met:

1 (1) the crew is filming a parade, demonstration or other
2 special event, and has obtained all permission that may be required. The
3 exemption *shall* allow them to operate on the same basis as a citizen
4 with a camera;

5 (2) pedestrian and vehicular traffic is *not* altered;

6 (3) no special parking provisions are included;

7 (4) no stunt work is performed;

8 (5) permission is obtained from controlling authorities to use
9 government of Guam property, other than sidewalks and streets;

10 (6) permission is obtained from owners to use private property
11 where applicable; and

12 (7) the production company or film crew ensures, to the
13 maximum extent possible, the accuracy or appropriateness of the
14 presentation, interpretation, and usage of tangible and intangible
15 aspects of the *CHamoru* culture and heritage as may be practicable in
16 the production of films, videos, audio recordings, music recordings,
17 computer-generated imagery and other media-related products.

18 **§ 3208. Local Production Companies Exempt.**

19 In addition to the General Exemptions authorized in § 3207 of this Article, the
20 provisions of this Article and the rules, regulations, and requirements authorized
21 herein *shall not* apply to or affect local production companies if:

22 (a) the production company was incorporated in Guam;

23 (b) the principal owner(s) is a resident of Guam and has filed
24 individual tax returns in Guam for a period of at least three (3) years;

25 (c) the production company maintains its headquarters in Guam;

26 (d) the production company is licensed to do business in Guam;

1 (e) the daily operations of the production company are managed by
2 a resident of Guam; and

3 (f) the production company ensures, to the maximum extent
4 possible, the accuracy or appropriateness of the presentation, interpretation,
5 and usage of tangible and intangible aspects of the *CHamoru* culture and
6 heritage as may be practicable in the production of films, videos, audio
7 recordings, music recordings, computer-generated imagery and other media-
8 related products.

9 **§ 3209. Applicants and Issuance.**

10 (a) Issuing Authority. The issuing authority *shall* be the Guam Film Office
11 Administrator.

12 (b) Applications. Each application for filming under this Article must be
13 completed in full and filed with the Administrator or his/her designee.

14 (c) The permit application *shall* be in a form the Administrator or his/her
15 designee may reasonably require. In lieu of the foregoing, the applicant may submit
16 the permit application on the form adopted and in use by the Guam Film Office.

17 (d) The Administrator or his/her designee may refer the application to such
18 appropriate government department, agency, autonomous agency, office or
19 instrumentality as are directly impacted by the application, and as he/she deems
20 necessary from the nature of the application for review, evaluation, investigation,
21 and recommendations by the department, agency, autonomous agency, office or
22 instrumentality regarding approval or disapproval of the application.

23 (e) The Administrator or his/her designee *shall* issue a permit under this
24 Article if it is determined that the following criteria have been met:

25 (1) the proposed use will *not* unreasonably interfere with or
26 endanger the public peace or rights of nearby residents to the quiet,

1 peaceful enjoyment of their property, or otherwise be detrimental to the
2 public peace, health, safety or general welfare;

3 (2) the proposed use will *not* unduly impede, obstruct or
4 interfere with the operation of emergency vehicles or equipment in or
5 through the permit area, or adversely affect the government's ability to
6 perform municipal functions or furnish government services in the
7 vicinity of the permitted area; and

8 (3) the proposed use will *not* constitute a fire or safety hazard
9 and all proper safety precautions will be taken as is reasonably
10 necessary to protect the public peace, health, safety or general welfare.

11 (f) The Administrator or his/her designee *shall* deny the permit if the
12 conditions of this Article and all applicable laws and regulations have not been met
13 or if the application contains incomplete or false information. No permit shall be
14 denied without a clear written explanation of the reasons compelling a denial and
15 the process by which said denial may be appealed.

16 (g) The Administrator or his/her designee may immediately revoke or
17 suspend a permit which has been granted if the conditions of this Article and all
18 applicable laws and regulations are no longer being met, or if the information
19 supplied by the applicant becomes, or is determined to be, false or incomplete, or if
20 any substantial change in circumstances results in the proposed use becoming
21 detrimental to the public peace, health, safety or general welfare.

22 (h) The Administrator or his/her designee *shall* conduct production site
23 inspections, monitoring, and enforcement of this Article.

24 (i) Reimbursement for Personnel. The production company *shall*
25 reimburse the relevant government of Guam agency for any personnel provided to
26 the company (i.e. police, fire, traffic control, medical personnel) for the purpose of

1 assisting the production. Any cost *shall* be negotiated, and approved, prior to the
2 shoot date. A fee for issuance of the permit *shall* be set by the Advisory Committee.

3 **§ 3210. Indemnification of Government Against Liability.**

4 Prior to and as a condition precedent to the granting of a permit under this
5 Article, each applicant *shall* agree to indemnify, defend and hold the government of
6 Guam, its authorized agents, officers, representatives and employees harmless from
7 and against any and all losses, damages, claims, causes of action, costs, liabilities,
8 penalties, judgments and expenses, including without limitation, defense costs and
9 reasonable legal fees, resulting from any and all claims or damage of any nature,
10 including any accident, loss or damage to persons or property which the government
11 may incur and which arise from or relate to any activity conducted by the permittee
12 or any of its agents, employees, representatives, contractors or consultants in
13 connection with the rights granted in the permit or under this Article. The form of
14 the indemnification agreement *shall* be as determined by the Attorney General of
15 Guam.

16 **§ 3211. Insurance and Bonding Required.**

17 (a) Liability Insurance. As a condition of the issuance of a permit
18 hereunder, every permittee must procure and maintain in full force and effect during
19 the term of the permit a policy (or policies) of insurance from an insurance company
20 licensed to do business in Guam, naming the government of Guam, its officers,
21 employees and agents as coinsured for protection against claims of third persons for
22 any and all liability of permittee with respect to its obligations and liabilities under
23 its permit and this Article, and its indemnities, including, but *not* limited to,
24 commercial general liability insurance on an “occurrence” basis against claims for
25 personal injury, including death, bodily injury or property damage liability, and in
26 an amount *no less than* One Million Dollars (\$1,000,000), or which otherwise

1 provides sufficient coverage that the Administrator or his/her designee determines
2 to be necessary and adequate under the circumstances. The certificate of insurance
3 *shall not* be subject to cancellation or modification until after thirty (30) days'
4 written notice to the Guam Film Office. Prior to the issuance of any permit, a copy
5 of the certificate of insurance *shall* be provided to the Insurance Commissioner. A
6 copy of the certificate will remain on permanent file.

7 (b) Worker's Compensation Insurance. An applicant *shall* conform to all
8 applicable federal and local requirements for worker's compensation insurance for
9 all persons operating under a permit.

10 (c) Hold Harmless Agreement. An applicant *shall* execute a hold harmless
11 agreement as provided by the government of Guam and incorporated within the
12 permit issued under this Article.

13 (d) Faithful Performance Bond. To ensure cleanup and restoration of any
14 public property involved in the filming, the permittee may be required to post a
15 refundable faithful performance bond (amount to be determined by the rules and
16 regulations), cash surety or other comparable form of security guarantee at the time
17 the application is submitted. Upon completion of filming, cleanup and restoration,
18 and a satisfactory inspection of the site by the Guam Film Office Administrator or
19 his/her designee, the bond may be returned to the applicant.

20 **§ 3212. Effective Date.**

21 This Article *shall* be effective one hundred eighty (180) days after the date of
22 enactment.

23 **§ 3213. Severability.**

24 If any provision of this Article or its application to any person or circumstance
25 is found to be invalid or contrary to law, such invalidity *shall not* affect other

1 provisions or applications of this Article that can be given effect without the invalid
2 provision or application, and to this end the provisions of this Article are severable.”

3 **Section 3.** A new § 3103(h) is *added* to Chapter 3, Title 12, Guam Code
4 Annotated, to read:

5 “(h) The Corporation is authorized to create and administer the Guam
6 Film Office in order to advocate for the *Håfa Adai* spirit globally.”

7 **Section 4. Transfer of Assets.** Any property and assets of the Guam Film
8 Office which is held by the Guam Economic Development Authority *shall* be
9 transferred immediately to the Guam Educational Telecommunications Corporation.

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