

I Mina'trentai Sais Na Liheslaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
<div>121-36 (COR)</div> <div>As amended by the Committee on General Government Operations, Appropriations, and Housing; and substituted on the Floor; and further amended by the Committee on General Government Operations, Appropriation, and Housing; and amended in the Committee of the Whole</div>	Joe S. San Agustin Tina Rose Muña Barnes V. Anthony Ada Frank Blas Jr. Joanne Brown Christopher M. Dueñas James C. Moylan Telena Cruz Nelson Sabina Flores Perez Clynton E. Ridgell Amanda L. Shelton Telo T. Taitague Jose “Pedro” Terlaje Therese M. Terlaje Mary Camacho Torres	AN ACT TO ADD A NEW CHAPTER 83 TO TITLE 12, DIVISION 2, GUAM CODE ANNOTATED RELATIVE TO THE DESIGN, BUILD, FINANCE, LEASE, TRANSFER AND MAINTENANCE OF THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER WHICH SHALL BE CALLED THE “THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER CONSTRUCTION ACT OF 2021.”	4/13/21 4:06 p.m.	4/15/21	Committee on General Government Operations, Appropriations, and Housing	5/12/21 9:30 a.m. 7/23/21 9:00 a.m.	6/19/21 5:17 p.m. As amended by the Committee on General Government Operations, Appropriations, and Housing 8/4/21 10:59 a.m. As amended by the Committee on General Government Operations, Appropriations and Housing; Substituted on the floor; and Further amended by the Committee.	Request: 4/16/21 4/26/21 8/5/21	6/30/21 10:08 a.m. Supplement Document to the Committee Report on Bill No. 121-36 (LS). As amended by the Committee on General Government Operations, Appropriations, and Housing. 7/8/21 As Amended by the Committee on General Government Operations, Appropriations, and Housing; and Substituted on the floor.
	SESSION DATE	TITLE	DATE PASSED	TRANSMITTED	DUE DATE	PUBLIC LAW NO.	DATE SIGNED	NOTES	
	9/24/21	AN ACT TO <i>ADD</i> A NEW CHAPTER 83 TO DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE DESIGN, BUILD, FINANCE, LEASE, TRANSFER AND MAINTENANCE OF THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER; AND TO BE KNOWN AS “THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER ACT OF 2021.”	10/4/21	10/5/21	10/16/21	36-56	10/13/21	Received: 10/15/21 Mess and Comm. Doc. No. 36GL-21-1192	

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HÅGAN GUÅHAN
OFFICE OF THE GOVERNOR OF GUAM

October 13, 2021

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature

Guam Congress Building

163 Chalan Santo Papa

Hagåtña, Guam 96910

Doc Type:

36GL-21-1192
OFFICE OF THE SPEAKER
THERESE M. TERLAJE

~~10~~ 14 2021

Time: 3:14 pm

Received: [Signature]

Re: SUBSTITUTE BILL NO. 121-36 COR) – “AN ACT TO ADD A NEW CHAPTER 83 TO DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE DESIGN, BUILD, FINANCE, LEASE, TRANSFER, AND MAINTENANCE OF THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER; AND TO BE KNOWN AS “THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER ACT OF 2021”

Dear Madame Speaker,

It is self-evident that adequate hospital facilities are critical to the health and well-being of a people. This is true in the best of times, when our people visit our hospitals to treat illness and seek necessary preventative care, when our mothers give birth, and when our elderly need help maintaining their health as they age. As we have experienced firsthand this past year and a half, it is especially true in the worst of times, when, in addition to the diverse medical needs of our community, our island is struck by crisis and calamity.

We have long known that we needed a new hospital. In the face of the unprecedented global pandemic we continue to battle today, which to date has taken the lives of over 200 of our people, and afflicted over 16,000 more, it is clear that we simply cannot wait any longer. It is of paramount importance to the perseverance of our people and the preservation of our way of life that we act now, and get this hospital built. Construction of this new facility, as well as new facilities for agencies providing vital healthcare services to our people, fulfils a promise Lt. Governor Josh Tenorio and I made when we first took office to put the health and well-being of our people first, a promise we reaffirm today. Dedicating the necessary American Rescue Plan funds to this endeavor is one of my greatest privileges as Governor.

Guam is home to world-class healthcare professionals, and the continued vitality of our community is a reflection of the high level of care and service these professionals have committed to provide. It is time that our facilities catch up to meet that same high standard, and empower our healthcare workers to do their best work. It is with great pleasure that I sign Bill No. 121-36 into law as **Public Law No. 36-56**, paving the way towards the finance, design, construction, and ultimate operation

To: Speaker Terlaje
Fr: Governor of Guam
Date: October 13, 2021
Re: Substitute Bill No. 121-36 (COR)

Page 2 of 2

of our new healthcare campus, which will carry our community forward for decades, and help keep us all healthy and strong, to face whatever the future brings.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan

Governor of Guam

Enclosure: Substitute Bill No. 121-36 (COR) *nka P.L. No. 36-56*

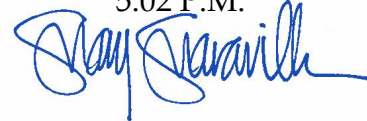
cc via email: *Honorable Joshua F. Tenorio, Sigundo Maga'låhen Guåhan*
Compiler of Laws

COMMITTEE ON RULES

RECEIVED:

October 14, 2021

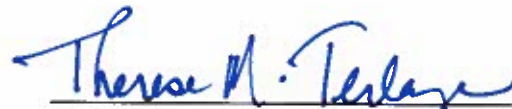
5:02 P.M.



I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

This is to certify that **Substitute Bill No. 121-36 (COR), "AN ACT TO ADD A NEW CHAPTER 83 TO DIVISION 2, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE DESIGN, BUILD, FINANCE, LEASE, TRANSFER AND MAINTENANCE OF THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER; AND TO BE KNOWN AS "THE GUAM TWENTY-FIRST (21ST) CENTURY HEALTHCARE CENTER ACT OF 2021,"** was on the 4th day of October 2021, duly and regularly passed.



Therese M. Terlaje
Speaker

Attested:



Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 5th day of October, 2021, at 5:13 o'clock P.M.



Assistant Staff Officer
Maga'håga's Office

APPROVED:



Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 10/13/21

Public Law No. 36-56

2021-14787

RCVD AT CENTRAL FILES
OCT 5 '21 PM5:13

I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2021 (FIRST) Regular Session

Bill No. 121-36 (COR)

As amended by the Committee on General Government Operations,
Appropriations and Housing; substituted on the Floor;
further amended by the Committee on General Government Operations,
Appropriations and Housing; and amended in the Committee of the Whole.

Introduced by:

Joe S. San Agustin
Tina Rose Muña Barnes
V. Anthony Ada
Frank Blas Jr.
Joanne Brown
Christopher M. Dueñas
James C. Moylan
Telena Cruz Nelson
Sabina Flores Perez
Clynton E. Ridgell
Amanda L. Shelton
Telo T. Taitague
Jose “Pedo” Terlaje
Therese M. Terlaje
Mary Camacho Torres

**AN ACT TO *ADD* A NEW CHAPTER 83 TO DIVISION 2,
TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO
THE DESIGN, BUILD, FINANCE, LEASE, TRANSFER
AND MAINTENANCE OF THE GUAM TWENTY-FIRST
(21ST) CENTURY HEALTHCARE CENTER; AND TO BE
KNOWN AS “THE GUAM TWENTY-FIRST (21ST)
CENTURY HEALTHCARE CENTER ACT OF 2021.”**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. A new Chapter 83 is hereby *added* to Title 12, Guam Code
Annotated, to read as follows:

“CHAPTER 83

**THE GUAM TWENTY-FIRST (21ST) CENTURY
HEALTHCARE CENTER ACT OF 2021**

- § 83101. Legislative Findings and Policy.
- § 83102. Definitions.
- § 83103. Authorization to Enter into Long-Term Leases.
- § 83104. Hospital Project Supervision, Reuse Study, and Appropriation.
- § 83105. Identification of Projects and Procurement.
- § 83106. Responsibility of Contractor/Developer.
- § 83107. Contractual Safeguards.
- § 83108. Assignments.
- § 83109. Pledge or Reservation of Revenues.
- § 83110. Use of Tax-Exempt Bond, Taxable Bond, and Other Financing Instruments for Financing.
- § 83111. Hospital IT and Building Management System.
- § 83112. Utilities and Routine Maintenance and Repair.
- § 83113. Maintenance Fund.
- § 83114. Rules and Regulations.
- § 83115. Financial Plan Required.
- § 83101. Legislative Findings and Policy.**

I Liheslaturan Guåhan finds that the Guam Memorial Hospital Authority (GMHA), the Department of Public Health and Social Services (DPHSS), and the Guam Behavioral Health and Wellness Center (GBHWC) are in dire need of new facilities. The healthcare facilities' structures have been used for more than five (5) decades and are showing stages of structural failure due to the age of said facilities. The structures of the healthcare facilities are also not meeting modern building codes, which creates a liability to the staff, patients, and visitors of the facilities.

The need for new facilities is in demand as the U.S. Department of the Interior, Office of Insular Affairs, has funded an assessment for the U.S. Army Corps of Engineers (USACE) to investigate the failing structure and the long and short-term needs of the hospital. The failing structure is being used to continue operation, and addressing structural and environmental issues is outlined in the USACE reports. GMHA needs a new facility as it endangers the accreditation status of the hospital based on standards and guidelines promulgated by United States Centers for Medicare and Medicaid Services (CMS) and applicable codes. *I Liheslaturan Guåhan* finds that the current infrastructure of the GMHA facility is in an overall state of failure due to its age of more than fifty (50) years, environmental exposure, lack of financial resources to support the pre-planned capital infrastructure replacements, and lack of the facilities design adherence to current building codes. According to USACE, the replacement of all GMHA facilities is required to ensure renewed compliance with hospital accreditation standards and to protect the life, health, and safety of staff, patients, and visitors.

I Liheslaturan Guåhan finds that the DPHSS has not been occupying its main building in Mangilao due to an electrical fire caused by aged electrical wires within the building. DPHSS services have been relocated to various commercial rentals and Government of Guam buildings in order to provide services to the people of Guam. The Mangilao facility of DPHSS has been deemed unsafe by the Chief of the Guam Fire Department as their investigation shows that multiple electrical wiring issues are present due to the age of the structure as it was built in 1973.

I Liheslaturan Guåhan finds that DPHSS should have a central facility for the people of Guam to have better access to public health and social services. The Mangilao facility of DPHSS is deemed dangerous and hazardous, and rehabilitation is not possible. It is necessary for DPHSS to ensure that services are available for

the people of Guam which they have been providing, with services scattered in different locations on the island.

I Liheslaturan Guåhan finds that with the growing population of the island of Guam, the GBHWC needs to expand their facilities as their services evolve to meet the needs of our community. The main facility of GBHWC has outgrown its main building as the staff and patient populations have increased. The growing population of our island has caused the GBHWC to actively operate its services, but with the lack of facilities within their main building, various GBHWC services are scattered throughout the island; and it is deemed necessary for the Government of Guam to provide behavioral health and wellness services to our people as social issues are present within our community.

Furthermore, *I Liheslaturan Guåhan* finds that the pandemic has reinforced the need for better healthcare facilities, such as the Guam Memorial Hospital Authority facilities, the Department of Public Health and Social Services main building, and the Guam Behavioral Health and Wellness Center facilities. *I Maga'hågan Guåhan* stated that she intends to allocate Three Hundred Million Dollars (\$300,000,000) from the American Rescue Plan to construct a new hospital facility. The U.S. Army Corps of Engineers has stated that the replacement of the GMHA facility would cost an estimated Seven Hundred Forty-three Million Dollars (\$743,000,000), including Twenty-one Million Dollars (\$21,000,000) for rehabilitation of the current facility to receive accreditation. The American Rescue Plan also allows for Earned Income Tax Credits to be reimbursed to Guam at an estimated Sixty Million Dollars (\$60,000,000) annually, of which an estimate of no more than Thirty-five Million Dollars (\$35,000,000) would be allocated for the payments of the lease-back agreement annually.

It is the intent of *I Liheslaturan Guåhan* to provide the people of Guam with state-of-the-art healthcare facilities which will be designed to include all healthcare

1 agencies within the Guam Twenty-First Century Healthcare Center. The creation of
2 the Guam Twenty-First Century Healthcare Center is to ensure that all healthcare
3 agencies have proper facilities that follow accreditation standards, guidelines
4 promulgated by the Centers for Medicare and Medicaid Services, and applicable
5 codes. It will also allow for Guam to become the regional healthcare hub of
6 Micronesia as it will open up opportunities for medical training and tourism, to and
7 from, other Pacific islands, while increasing medical professional services and
8 capacity within the entire region.

9 In an effort to overcome financing hurdles, and to provide for the healthcare
10 needs of the people of Guam, *I Liheslaturan Guåhan* desires to authorize the
11 Government of Guam to enter into a contract for the design, build, finance, lease,
12 transfer and long-term capital maintenance of the Guam Twenty-First Century
13 Healthcare Center with private sector contractors who can provide long-term
14 financing.

15 To facilitate the financing, design, construction, and maintenance of the Guam
16 Twenty-First Century Healthcare Center envisioned by this Act, the Government of
17 Guam will be authorized to execute a lease agreement of existing property under its
18 inventory for up to forty (40) years on which the Guam Twenty-First Century
19 Healthcare Center will be constructed, and the forty (40) year term shall begin
20 immediately after the design, permitting, and construction phase has been
21 completed.

22 The lease of the Government of Guam property will be to the
23 contractor/developer, who will design and construct the Guam Twenty-First Century
24 Healthcare Center and provide funding for the design and construction through
25 appropriations received from the reimbursement of the Earned Income Tax Credit
26 for Fiscal Year 2022 and prospective appropriations from the General Fund annually
27 thereafter. Upon completion of the construction, the facilities will be leased back to

1 the Government of Guam for a period not to exceed the initial ground lease to the
2 Guam Economic Development Authority and/or the contractor/developer over
3 which time the Government of Guam will amortize, as lease payments to the Guam
4 Economic Development Authority and/or the contractor/developer, the cost of the
5 financing, design, construction, and related expenses of the Guam Twenty-First
6 Century Healthcare Center.

7 The contractor/developer will also be responsible for the capital maintenance
8 and repair of the Guam Twenty-First Century Healthcare Center constructed under
9 this Act, whose costs shall be paid by the Government of Guam as provided for
10 under this Act. At the expiration of the lease-back period, the Government of Guam
11 real property and the Guam Twenty-First Century Healthcare Center constructed on
12 the Government of Guam real property will revert to the Government of Guam with
13 no further obligations to the Guam Economic Development Authority and/or the
14 contractor/developer.

15 **§ 83102. Definitions.**

16 For the purposes of this Chapter and unless otherwise specified, the following
17 words and phrases are defined to mean:

18 (a) *Act* means Chapter 83 of Title 12, Guam Code Annotated, which
19 shall be known as the “Guam Twenty-First Century Healthcare Center Act of
20 2021.”

21 (b) *Contract* shall mean the design, construction, financing,
22 maintenance, and transfer contract entered into by and between the
23 Government of Guam and the contractor/developer following negotiations on
24 the response to the Request for Proposal.

25 (c) *Contractor/developer* shall mean the authorized entity which
26 shall be the signatory on the contract and shall be fully responsible for
27 carrying out the design, build, finance, transfer, and maintenance of projects

that make up the Guam Twenty-First Century Healthcare Center that is deemed appropriate by GEDA. The contractor/developer may cooperate with another entity or entities in any manner the contractor/developer deems appropriate to provide for the financing, design, and build of the Guam Twenty-First Century Healthcare Center envisioned by this Chapter.

(d) *Guam Twenty-First Century Healthcare Center Committee* shall be chaired by the Administrator or Deputy Administrator of the Guam Economic Development Authority, and include the administrators and directors of all healthcare agencies, the Director or Deputy Director of the Department of Public Works, the Director or Deputy Director of the Department of Land Management, the Director or Deputy Director of the Bureau of Statistics and Planning, the Director or Deputy Director of the Bureau of Budget and Management Research, and the Director or Deputy Director of the Department of Administration.

(e) *Healthcare agencies* shall mean the Guam Memorial Hospital Authority (GMHA), the Department of Public Health and Social Services (DPHSS), and the Guam Behavioral Health and Wellness Center (GBHWC).

(f) *Guam Twenty-First Century Healthcare Center* as used in this Act shall mean the Guam Memorial Hospital Authority, the Department of Public Health and Social Services, and the Guam Behavioral Health and Wellness Center located as a whole, on one (1) property, or separately, if feasible.

(g) *Healthcare facilities* shall mean the facilities of the Guam Memorial Hospital Authority, the Department of Public Health and Social Services, and the Guam Behavioral Health and Wellness Center.

(h) *Leases* shall mean leases from the Government of Guam or by and through one or more of the healthcare agencies to the contractor/developer

1 and/or the Guam Economic Development Authority entered into at the time
2 of the contract for the property.

3 (i) *Lease-back* shall mean the lease from the Guam Economic
4 Development Authority and/or the contractor/developer to the Government of
5 Guam or by and through one or more of the healthcare agencies of the newly
6 constructed Guam Twenty-First Century Healthcare Center.

7 (j) *Property* shall mean any property on which the Guam Twenty-
8 First Century Healthcare Center is located.

9 **§ 83103. Authorization to Enter into Long-Term Leases.**

10 For the purpose of facilitating the financing, design, build and maintenance of
11 the Guam Twenty-First Century Healthcare Center encompassed by this Act, the
12 Government of Guam is authorized to lease property that will be used for the Guam
13 Twenty-First Century Healthcare Center, as required, to the Guam Economic
14 Development Authority and/or the contractor/developer sufficient Government of
15 Guam real property; provided, that such property is in the inventory of the
16 Government of Guam.

17 The Government of Guam is also authorized to lease-back the property from
18 the Guam Economic Development Authority and/or the contractor/developer for a
19 period mutually agreed upon between the Government of Guam and the Guam
20 Economic Development Authority and/or the contractor/developer as may be
21 reasonably necessary to amortize the lease-back period of no more than forty (40)
22 years of the cost associated with the design, construction, and maintenance of the
23 Guam Twenty-First Century Healthcare Center. In no event shall the end of such
24 lease-back period be structured as an annually renewable lease with a provision for
25 automatic renewals to the extent that pledged revenue under § 83109 of this Chapter
26 is available. The lease-back shall not be construed as a debt under any applicable
27 debt limitation under the Organic Act of Guam or Guam law.

1 **§ 83104. Hospital Project Supervision, Reuse Study, and**
2 **Appropriation.**

3 (a) The Guam Twenty-First Century Healthcare Center project undertaken
4 under the provisions of this Act shall be in accordance with the plans, specifications,
5 standards and costs approved by GEDA and shall be under the supervision of GEDA.

6 (b) A detailed reuse study which compares the feasibility of either
7 converting the existing GMH inpatient hospital to a Government of Guam facility
8 or developing a new Government of Guam facility for the purposes of housing
9 Government of Guam agencies that are currently renting commercial spaces shall
10 also include financing options for the purpose of funding the reuse or development
11 of the said Government of Guam facility by utilizing the savings from annual rent
12 realized by the Government of Guam based on moving from commercial spaces to
13 the redeveloped facility. Further, the reuse study shall include the estimated costs
14 associated with the design, financing, renovation and/or new construction of the
15 central government office complex separate and apart from the Guam Twenty-First
16 Century Healthcare Center.

17 (c) GEDA may solicit the services for a Program Management Office,
18 which shall include, but is not limited to, creating scopes of work, coordinating
19 projects, performance targets, conducting periodic quality control reviews, assuring
20 timely product generation and response, and managing the project to produce a
21 quality product within the budget and schedule during the construction of the Guam
22 Twenty-First Century Healthcare Center.

23 **§ 83105. Identification of Projects and Procurement.**

24 The Guam Economic Development Authority, in consultation with the
25 administrators and directors of healthcare agencies on Guam, shall utilize the
26 program study generated by each of the healthcare agencies and the report generated
27 by the U.S. Department of the Interior funded assessment report by the U.S. Army

Corps of Engineers and the Guam Fire Department to identify and prioritize potential projects from such program studies and assessment reports to be completed. Upon receipt of the program study of each healthcare agency, the Guam Economic Development Authority, in consultation with the administrator or director of the respective healthcare agency, shall solicit Request for Proposals (RFP), in compliance with the Guam Procurement Law, for the design, build, finance, lease, transfer, and maintenance of the Guam Twenty-First Century Healthcare Center, according to the needs of all the healthcare agencies and consistent with this Chapter. The choice of the contractor/developer shall be made by the Guam Twenty-First Century Healthcare Center Committee. The Committee shall assess the prior performance of the contractor/developer on similar projects and shall be free to disqualify any contractor/developer that does not have a successful record of project completion on Guam or in any similar isolated locality.

The Committee shall also specifically consider the contractor/developer's ability and performance with regards to financing, development, and construction of healthcare facilities.

The selection of a contractor/developer shall be based upon the proposal that delivers the lowest cost value for Guam in meeting the objectives of all healthcare agencies.

§ 83106. Responsibility of Contractor/Developer.

The contract shall require that the contractor/developer be responsible for all costs, expenses, and fees of any kind or nature associated with the design, civil improvements, on-site and off-site infrastructure, construction, permits, and financing associated with the completion of the Guam Twenty-First Century Healthcare Center to the extent provided by GEDA in consultation with the Guam Twenty-First Century Healthcare Center Committee in the Request for Proposals.

1 The lease may, for its purposes, provide that its term shall be extended for a period
2 not to exceed ten (10) years beyond the original term of the lease-back.

3 **§ 83107. Contractual Safeguards.**

4 The contractor/developer shall build the Guam Twenty-First Century
5 Healthcare Center in accordance with the Guam Building Code under Chapter 67 of
6 Title 21, Guam Code Annotated, and any other applicable requirements. The
7 construction contract shall contain contractual obligations typically found in
8 Government of Guam construction contracts, including, but not limited to:

- 9 (a) warranties;
- 10 (b) liquidated damages;
- 11 (c) performance and payments bonds;
- 12 (d) indemnity;
- 13 (e) insurance;
- 14 (f) standard specifications;
- 15 (g) technical specifications;
- 16 (h) progress schedule;
- 17 (i) maintenance;
- 18 (j) compliance with Guam labor regulations;
- 19 (k) compliance with Guam prevailing wage rates for employment of
20 temporary alien workers (H2) on Guam;
- 21 (l) compliance with Public Law 28-98: restriction against
22 contractors employing convicted sex offenders to work at Government of
23 Guam venues; and
- 24 (m) the 2017 Guam Tropical Energy Code.

25 The contract must be approved as to form and legality by the Attorney General
26 of Guam.

27 **§ 83108. Assignments.**

1 To facilitate the purpose of this Act and provide security for the holders of
2 any financing instruments issued pursuant to this Act, the contractor/developer may
3 assign, without the need of the consent of the Guam Economic Development
4 Authority, the contract, the lease, and the lease-back to any underwriter, trustee, or
5 other party as appropriate to facilitate the contractor/developer financing.

6 **§ 83109. Pledge or Reservation of Revenues.**

7 (a) Rental payments under the lease and the lease-back may be secured by
8 a pledge or other reservation of revenues collected by the Government of Guam from
9 the following:

10 (1) The sum of no more than Thirty-five Million Dollars
11 (\$35,000,000) from the revenues received pursuant to 11 GCA Chapter 42,
12 Earned Income Tax Credit, will be available for Fiscal Year 2022 only.

13 (2) The sum of no more than Thirty-five Million Dollars
14 (\$35,000,000) from the General Fund shall be appropriated annually
15 thereafter.

16 (3) The Governor of Guam may use federal funds that is made
17 available to the Government of Guam by the United States federal government
18 for such purposes.

19 (4) The use of other financing options is authorized for the purposes
20 of this Act, including, but not limited to, loans, grants, bond financing, and
21 other alternate funding or financing options, subject to legislative approval.

22 Any amounts reserved or pledged as provided in this Section shall be subject
23 to annual appropriation for the purpose of making lease-back payments. The
24 revenues pledged or reserved and thereafter received by the Government of Guam
25 or by any trustee, depository or custodian shall be deposited in a separate account
26 and shall be immediately subject to such reservation or the lien of such pledge
27 without any physical delivery thereof or further action, and such reservation or the

1 lien of such pledge shall be valid and binding against all parties having claims of any
2 kind in tort, contract or otherwise against the Government of Guam or such trustee,
3 depository or custodian, irrespective of whether the parties have notice thereof. The
4 instrument by which such pledge or reservation is created need be recorded.

5 **§ 83110. Use of Tax-Exempt Bond, Taxable Bond, and Other**
6 **Financing Instruments for Financing.**

7 (a) To minimize the financing cost to the Government of Guam, financing
8 utilized by the contractor/developer to fund the design, construction, and
9 maintenance of the Guam Twenty-First Century Healthcare Center shall be through
10 tax-exempt obligations, taxable bond obligation, or other financial instruments;
11 provided, such financing is available at interest rates determined by the Guam
12 Economic Development Authority to be reasonable and competitive. The Guam
13 Economic Development Authority shall be the issuer of any financial instruments or
14 obligations, unless the Guam Economic Development Authority waives its right to
15 serve as the issuer of financial instruments or obligations. Alternatively, the
16 contractor/developer may use an alternative method of financing, including, but not
17 limited to, a short-term debt, mortgage, loan, federally guaranteed loan or loan by
18 an instrumentality of the United States of America if such financing will better serve
19 the needs of the people of Guam. Such alternative financing shall be approved by *I*
20 *Liheslaturan Guåhan*. The purpose for the requirements of this Section is to assure
21 that the Government of Guam pays the lowest possible interest rate so that the cost
22 of the Government of Guam's financing of the design and construction of the Guam
23 Twenty-First Century Healthcare Center, amortized through the lease-back
24 payments from the Government of Guam to the Guam Economic Development
25 Authority and/or the contractor/developer, will be lower than regular commercial
26 rates.

(b) *I Liheslaturan Guåhan*, pursuant to § 50103(k) of Chapter 50, Title 12, Guam Code Annotated, hereby authorizes the Guam Economic Development Authority to issue one or more additional series of tax-exempt and/or taxable obligations (in any case, the “bonds”) for the purposes of financing the Guam Twenty-First Century Healthcare Center in an aggregate principal amount not to exceed Six Hundred Million Dollars (\$600,000,000) for the following purposes: (1) to finance the design, construction, and/or maintenance of the Guam Twenty-First Century Healthcare Center; (2) to fund a deposit to a debt service reserve fund; (3) to fund capitalized interest with respect to the bonds; and (4) to pay expenses relating to the authorization, sale and issuance of the bonds, including without limitation, printing costs, costs of reproducing documents, credit enhancement fees, underwriting, legal, feasibility, financial advisory and accounting fees and charges, fees paid to banks or other financial institutions providing credit enhancement, costs of credit ratings and other costs, charges and fees in connection with the issuance, sale and delivery of the bonds, subject to the following additional conditions:

(A) The terms and conditions of the bonds shall be as determined by the Guam Economic Development Authority by the execution of a certificate, trust agreement or indenture authorizing the issuance of the bonds; provided, however, that such terms and conditions shall be consistent with this Section, that the bonds shall have a final maturity not to exceed forty (40) years; and an interest rate not to exceed seven percent (7%).

(B) No bonds authorized by this Section shall be sold until the Board of Directors of Guam Economic Development Authority has approved the sale by resolution, as provided in Chapter 50 of Title 12, Guam Code Annotated.

(C) The issuance of bonds pursuant to this Section shall not be subject to the approval of the voters of Guam.

(c) The Guam Economic Development Authority and the Government of Guam shall undertake their respective best efforts to prioritize application of the portion of the net proceeds of the bonds allocated towards the design, construction, and/or maintenance of the Guam Twenty-First Century Healthcare Center first towards the construction of the new GMHA hospital facility, if and to the extent that such prioritization is practical, does not impact the marketing of the bonds and does not increase the costs to the Guam Economic Development Authority and/or the Government of Guam of issuing and repaying such bonds.

§ 83111. Hospital IT and Building Management System.

(a) For the purpose of extending the useful life of the Guam Twenty-First Century Healthcare Center, GEDA may include, in the specifications for the new facilities, the requirement for a medical information management system, an electronic medical records system, and a building management system. These systems identified must be done in consultation with the healthcare agencies and comply with federal mandates related to medical records, and foster compliance with requirements of the Centers for Medicare and Medicaid Services and of the accrediting organizations.

(b) GEDA, in consultation with the healthcare agencies, shall determine the specifications for such systems based on comprehensive, state-of-the-art technology generally accepted within the United States healthcare industry in connection with the development of new healthcare facilities.

(c) In order to ensure immediate response to system downtimes or failure, GEDA shall include in the specifications the requirement that the provider of these systems have a local Guam office and service technicians stationed on Guam.

§ 83112. Utilities and Routine Maintenance and Repair.

The contractor/developer shall be responsible for the connection and payment of all utilities, including without limitation, power, water, sewer,

1 telephone, cable, and all maintenance and repair and exterior groundskeeping and
2 landscaping and upkeep of the Guam Twenty-First Century Healthcare Center.

3 **§ 83113. Maintenance Fund.**

4 The contract with the contractor/developer, and the lease-back, shall provide
5 that all capital maintenance and repair of the Guam Twenty-First Century
6 Healthcare Center facilities be performed by the contractor/developer. The
7 contractor/developer shall provide sufficient funding for a separate maintenance
8 fund for this purpose; sufficient funds for this purpose shall be defined as the cost
9 of capital maintenance and repair for the remaining period of the lease agreement
10 with the Government of Guam after the completion of the Guam Twenty-First
11 Century Healthcare Center. The maintenance fund shall be used exclusively for the
12 purpose of capital maintenance and repair and shall be in an interest-bearing
13 account segregated from other funds held in escrow.

14 **§ 83114. Rules and Regulations.**

15 The Guam Economic Development Authority, in consultation with the
16 healthcare agencies, may promulgate rules and regulations pursuant to the
17 Administrative Adjudication Law to implement the provisions of this Chapter.

18 **§ 83115. Financial Plan Required.**

19 GEDA shall prepare a financial plan in accordance with the following:

20 (a) At a minimum, the financial plan shall include a comprehensive
21 report of the associated costs and sources of revenues required for the duration
22 of the Guam Twenty-First Century Healthcare Center (Project). The financial
23 plan should reflect the total Project cost and any phases that represent the
24 Project development priorities. All anticipated Project revenues shall be
25 matched and allocable to the anticipated Project costs and shall detail its
26 impact on the overall debt ceiling.

1 (b) The financial plan shall be submitted to *I Maga'hāgan Guåhan*
2 and transmitted to the Speaker of *I Liheslaturan Guåhan*. No solicitation of
3 Request for Proposal or Invitation for Bid authorized to effectuate the
4 requirements of this Act may be issued until the financial plan is delivered to
5 the Speaker of *I Liheslaturan Guåhan*.”

6 **Section 2. Effective Date.** This Act shall be effective upon enactment.

7 **Section 3. Severability.** If any provision of this Act or its application to any
8 person or circumstance is found to be invalid or contrary to law, such invalidity shall
9 not affect other provisions or applications of this Act that can be given effect without
10 the invalid provision or application, and to this end the provisions of this Act are
11 severable.