



I Mina'trentai Siette Na Lihelaturan Guåhan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
223-37 (COR)	Telo T. Taitague Sabina Flores Perez Jesse A. Lujan	AN ACT TO AMEND § 5127 OF SUBARTICLE C, ARTICLE 2, CHAPTER 5, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO COMMERCIAL LEASING OF PUBLIC REAL PROPERTY AND RELATED FACILITIES.	12/20/23 12:57 p.m.						

I MINA'TRENTAI SIETTE NA LIHESLATURAN GUÅHAN
2023 (FIRST) Regular Session

Bill No. 223-37 (COR)

Introduced by:

Telo T. Taitague 
Sabina Flores Perez, SFP
Jesse A. Lujan 

AN ACT TO *AMEND* § 5127 OF SUBARTICLE C, ARTICLE 2, CHAPTER 5, DIVISION 1, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO COMMERCIAL LEASING OF PUBLIC REAL PROPERTY AND RELATED FACILITIES.

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

2 **Section 1.** § 5127 of Subarticle C, Article 2, Chapter 5, Division 1, Title
3 5, Guam Code Annotated, is hereby *amended*, to read:

4 **“§ 5127. Commercial Leasing of Public Real Property and Related**
5 **Facilities.**

6 (a) Public Real Property and Related Facilities. From the effective
7 date of this law, and notwithstanding any other provision of this Chapter, no
8 commercial contract, lease, permit, or license for use of public real property,
9 and related facilities by any non-governmental person or entity, shall be
10 solicited, negotiated, entered into, or made for a term in excess of ~~five~~ ten
11 (§10) years, inclusive of any extension, option, or renewal, provided the
12 terms and conditions of the commercial contract, lease, permit, or license
13 have been satisfied during the initial five (5) years as evidenced in a written
14 approval by *I Maga'hågan Guåhan* or relevant Board of Directors of the
15 Government of Guam.

1 (1) Any contract, lease, permit or license made, renewed or
2 extended in violation of this law shall become void upon the ~~fifth~~
3 tenth (§10th) anniversary of the making of such contract, lease,
4 permit, or license.

5 (2) This limitation shall not apply to residential and agricultural
6 leases to beneficiaries under the Chamorro Land Trust.

7 (3) Any such contract, lease, permit, or license shall mean a
8 “lease of real property” and not the lease of supplies as that term is
9 used in § 5030(u) of this Chapter.

10 (b) Exceptional Term Contracts. The Chief Procurement Officer, the
11 Director of Public Works, or the head of a purchasing agency, as authority
12 may exist therefore, may solicit a contract for a term longer than otherwise
13 allowed by this Section (an “Exceptional Term Contract”).

14 (1) Prior to soliciting any Exceptional Term Contract, *I*
15 ~~*Maga'låhi*~~*Maga'hågan Guåhan* (the Governor) or, in the case of an
16 autonomous agency, the Board of Directors, shall make a written
17 Determination of Need justifying by a quantifiable sum an
18 Exceptional Term Contract, and specifying the full term, inclusive of
19 extensions, options and renewals, for such contract, and provide a
20 copy of such Determination of Need to the Speaker of *I Liheslaturan*
21 *Guåhan*.

22 (2) No Exceptional Term Contract shall be solicited unless a
23 Determination of Need is obtained from *I* ~~*Maga'låhi*~~*Maga'hågan*
24 *Guåhan* (the Governor) or, in the case of an autonomous agency, the
25 Board of Directors.

1 (3) A written Determination of Need shall be valid for two (2)
2 years or until an Exceptional Term Contract is executed to fill the
3 stated need, whichever comes first.

4 (c) Subsequent to transmitting a Determination of Need to the Speaker
5 of *I Liheslaturan Guåhan*, a notice of solicitation shall be published as
6 provided in § 5211(c) of Subarticle B of Article 3 of this Chapter, such
7 notice to conspicuously note the solicitation is for an Exceptional Term
8 Contract, and specifying the term thereof, as well as the date of the proper
9 Determination of Need. Any Exceptional Term Contract made in violation
10 of this Section shall be void.

11 (d) Legislative Approval Required for Exceptional Term Contracts.
12 Subsequent to satisfying the requirements of this § 5127, the commercial
13 contract, lease, permit, or license for use of public real property and related
14 facilities shall be transmitted to *I Liheslaturan Guåhan* for approval or
15 disapproval, in whole.

16 (1) *I Liheslaturan Guåhan* shall take action to approve or
17 disapprove the commercial contract, lease, permit, or license within
18 ~~sixty (60)~~ one hundred eighty (180) calendar days from the date of
19 filing with the Speaker.

20 (2) A public hearing shall be conducted by the Chairperson of
21 the Legislative Committee having oversight jurisdiction during the
22 ~~sixty (60)-day~~ one hundred eighty (180)-day review period, and said
23 Committee shall report its findings and recommendations to *I*
24 *Liheslaturan Guåhan*.

25 (3) The ~~sixty (60)~~ one hundred eighty (180) day period allowed
26 for *I Liheslaturan Guåhan* to approve or disapprove the contract,
27 lease, permit, or license shall be tolled from the time that a public

1 hearing is noticed and until a Committee Report is completed, which
2 shall not exceed a period of ninety (90) calendar days.

3 (4) Legislative approval shall be by enactment into law.

4 (e) The solicitation and award of any such contract, lease, permit, or
5 license shall be conducted as provided in this Chapter, and the
6 Determination of Need shall be a part of such record and subject to § 5251
7 of this Chapter, along with any modification, amendment, exercise of option
8 or renewal, or extension of such contract, lease, permit, or license.”

9
10 **Section 2. Effective Date.** This Act *shall* become effective upon enactment
11 and *shall not* affect the transactions that are currently in discussion pursuant to the
12 issuance of an officially published Invitation-For-Bid (IFB) or Request-For-
13 Proposal (RFP).

14
15 **Section 3. Severability.** *If* any provision of this Act or the application to any
16 person or circumstance is found to be invalid or contrary to law, such invalidity
17 *shall not* affect other provisions or applications of this Act that can be given effect
18 without the invalid provision or application, and to this end the provisions of this
19 Act are severable.