

*I Mina'trentai Siette Na Liheslaturan Guåhan*  
**BILL STATUS**

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	FISCAL NOTES	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	NOTES
103-37 (LS)	Roy A. B. Quinata	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.	4/24/23 11:58 a.m.	4/28/23	Committee on Health, Land, Justice, and Culture	Request: 5/1/23  5/15/23			



## COMMITTEE ON RULES

Senator Chris Barnett, Chairperson  
*I Mina'trentai Siette Na Liheslaturan Guåhan*  
37<sup>th</sup> Guam Legislature

May 15, 2023

**To:** **Joaquin P. Taitague**  
Substitute Clerk of the Legislature

**From:** **Senator Chris Barnett**   
Chairperson, Committee on Rules

**Subject:** **Fiscal Note for Bill No. 103-37 (LS)**

---

*Håfa Adai yan Biba Guåhan!*

Find the attached, Fiscal Note for the following bill:

**Bill No. 103-37 (LS).**

I also request that the same be sent to the respective Chairperson of the Standing Committee, to which this bill has been referred. Kindly forward the same to Management Information Services (MIS) for posting on our website.



**Bureau of Budget & Management Research**  
**Fiscal Note of Bill No. 103-37 (LS)**

**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.**

Department/Agency Appropriation Information	
Dept./Agency Affected: Department of Administration	Dept./Agency Head: Edward M. Birn, Director
Department's General Fund (GF) appropriation(s) to date:	\$8,196,612
Department's Other Fund appropriation(s) to date: Indirect Cost Fund (\$712,031); Limited Gaming Fund (\$60,036)	\$772,067
<b>Total Department/Agency Appropriation(s) to date:</b>	<b>\$8,968,679</b>

Fund Source Information of Proposed Appropriation			
	General Fund:	(Specify Special Fund):	Total:
FY 2022 Unreserved Fund Balance		\$0	\$0
FY 2023 Adopted Revenues	\$0	\$0	\$0
FY 2023 Appro. (P.L. 36-107 thru _____)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
<b>Total:</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Estimated Fiscal Impact of Bill						
	One Full Fiscal Year	For Remainder of FY 2023 (if applicable)	FY 2024	FY 2025	FY 2026	FY 2027
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
Special Funds	\$0	\$0	\$0	\$0	\$0	\$0
<b>Total</b>	<b>1/</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

- Does the bill contain "revenue generating" provisions? / / Yes / X / No  
If Yes, see attachment
- Is amount appropriated adequate to fund the intent of the appropriation? / X / N/A / / Yes / / No  
If no, what is the additional amount required? \$ \_\_\_\_\_ / X / N/A
- 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 / X / No
- Will the enactment of this Bill require new physical facilities? / / Yes / X / No
- Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / X / Yes / / No  
/ / Requested agency comments not received by due date / / Other:

Analyst:  Tyler Bautista, BMA I	Date: <u>05/05/2023</u>	Director:  Lester L. Carlson, Jr., Director	Date: <u>MAY 15 2023</u>
--	-------------------------	---	--------------------------

Notes:  
1/ See attached comments.

**BUREAU OF BUDGET AND MANAGEMENT RESEARCH**  
**COMMENTS ON BILL NO. 103-37 (LS)**

The proposed legislation intends 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. This bill has intentions to raise the term of a commercial lease from five (5) years to a maximum of thirty (30) years (inclusive of extensions, options, and renewals), provided that the terms and conditions of the commercial lease, contract, permit, or license(s) have been satisfied during the initial five (5) years as evidenced by the Governor of Guam or relevant Board of Directors (GovGuam). After the 30<sup>th</sup> anniversary of the contract/lease, it shall become void. Further, the proposed legislation seeks to amend the legislative approval time frame for Exceptional Term Contracts from sixty (60) calendar days to ninety (90) calendar days, upon the date of submission to the Speaker of I Liheslaturan Guahan.

Per correspondence with the Department of Administration, it is impossible to determine the fiscal effect of this Bill, if enacted, as an extended lease appears to be conditioned on the result of the initial five (5) years. Additionally, the DOA has mentioned that similar to the Guam International Airport Authority's issue with vendor leases last year, this is not a procurement; however, it will result in additional income. As such, the provisions for the Chief Procurement Officer, Director of the Department of Public Works, and purchasing officers to validate extensions should be nullified.

Most commercial agreements for use of public real property are based on the appraised value of the property at the time of agreement and often include a clause for incremental increases regarding rental payments throughout the term of the agreement. By lengthening the term of the agreement to another twenty-five (25) years, the proposed legislation provides an opportunity for the Government of Guam to collect an extended incremental rental value for rental of public real property. Further, a lengthened term may increase the overall interest for investors to enter into a commercial agreement for use of public real property and compound the revenues from rental payments mentioned above.

Conversely, extending the term length means that the base appraised values of the property cannot be revaluated until the contract, lease, permit, and license has expired. Revaluation of the property would mean a potential increase to the base appraised value of the property as well as a potential increase to the rental payments associated with the agreement.

The Bureau notes that there are pros and cons to extending the term of commercial contracts, leases, permits, and licenses for use of public real property. However, the Bureau cannot determine an approximate financial impact at this time due to not having sufficient information on many variables that constitute an agreement for use of public real property, including the appraised value of each property being commercially utilized, the conditions of each agreement, and the potential increase to the property's value should a revaluation occur.