


I MINA TRENTAI DOS LIHESLATURAN GUÅHAN
2013 (First) Regular Session

Bill No. 26-32 (COR)

Introduced by:

T.C. Ada 

**AN ACT TO ADD §10238 TO ARTICLE 2, CHAPTER 10 OF
TITLE 12 GUAM CODE ANNOTATED TO AUTHORIZE THE
JOSE D. LEON GUERRERO PORT AUTHORITY OF GUAM
(PORT) TO WAIVE SOVEREIGN IMMUNITY TO SATISFY A
PREREQUISITE FOR APPROVAL OF A \$10,000,000
COMMERCIAL LOAN.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan* finds that on

3 June 28, 2012, the Port Board of Directors approved the issuance of RFP No. 12-014,
4 soliciting the services of a commercial lending institution for the financing of the Port's
5 service life extension (SLE) repairs on the Port's wharf, and procurement of a financial
6 management system and a container top lifter with the total amount, not to exceed Ten
7 Million Dollars (\$10,000,000)

8 *I Liheslatura further finds that* on September 14, 2012 GEDA issued RFP No.
9 12-014 and received three responses to the proposal. The Bank of Guam was given the
10 highest rating amongst the bidders. On October 26, 2012, the Negotiation Team initially
11 met with Bank of Guam for the negotiation of terms and conditions. On November 6,
12 2012, GEDA awarded the Bank of Guam as the financial institution to provide the
13 services.

14 *I Liheslatura further finds that* on January 22, 2013, the Bank of Guam informed
15 the Port that a prerequisite for the closing of the loan was for the Port to waive its

1 immunity from any suit or action in contract on any indebtedness authorized by Article 2
2 of Chapter 10, Title 12 of the Guam Code Annotated.

3 *I Liheslatura finds* that the Port’s Board of Directors approved Resolution No.
4 2013-02 to waive the Port’s immunity as a condition to of the SLE loan, and accepted the
5 commitment terms by Bank of Guam, dated February 15, 2013.

6 *I Liheslatura finds* that the Port’s General Manager transmitted a memorandum to
7 the Chairperson of the Committee on Public Safety, Infrastructure and Maritime
8 Transportation, requesting consideration for proposed legislation as found in Section 2 of
9 this Act, relative to waiving sovereign immunity as a condition of the SLE Loan, dated
10 April 5, 2013.

11 **Section 2.** A new §10238 is *added* to Article 2 of Chapter 10, Title 12 of the
12 Guam Code Annotated to read as follows:

13 “Notwithstanding any substantive or procedural provision of Chapter 6 of
14 Title 5, Guam Code Annotated, the Authority shall not be entitled to immunity
15 from any suit or action in contract on any indebtedness authorized by this Article.
16 For the purposes of this Article only, immunity is waived as to the award of
17 attorney fees in connection with any suit brought to enforce any right or
18 obligation given under this Article or in connection with the enforcement of the
19 terms of any agreement or indenture that arises directly from the issuance of
20 bonds or indebtedness authorized under this Article.”

21 **Section 3. Severability.** If any of the provisions of this law or its application to
22 any person or circumstance is found to be invalid or contrary to law, such invalidity shall
23 not affect other provisions or applications of this law which can be given effect without

1 the invalid provisions or application, and to this end the provisions of this law are
2 severable.

3 **Section 4. Effective Date.** This Act shall become effective upon its enactment.