

I MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) REGULAR SESSION

Bill No. 54-32 (art)

Introduced by:

V.C. Pangelinan
M. San Nicolas

2013 FEB 25 PM 12:11
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AN ACT AMEND § 511005 AND § 511006 AND TO ADD
§ 511007 AND § 511008 TO CHAPTER 51 ARTICLE 10
OF 10 GUAM CODE ANNOTATED AND TO ADD § 5120
TO CHAPTER 5 PART B OF 5 GUAM CODE
ANNOTATED RELATIVE TO THE FUND
MANAGEMENT OF THE HOST COMMUNITY
BENEFITS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **SECTION 1. Legislative findings and intent.** *I Liheslaturan Guåhan* finds the
2 Host Community Benefit Fund ('Fund') was established by Public Law 30-165 to
3 recognize the impact on the villages of Inarajan and Ordot as Host Communities to the
4 Leyon landfill and the Ordot dump and to receive revenue from the tipping fees to fund
5 quality of life enhancements in their respective villages.

6 *I Liheslaturan Guåhan* further finds that P.L. 30-165 provides for host
7 community benefits for a landfill located in villages from the opening to the closing of
8 the landfill. This assumes that the landfill has been operated as a Subtitle D landfill that
9 poses no adverse effects on the community when the landfill is ultimately closed. The
10 Ordot dump however has not been operated pursuant to Subtitle D regulations and will
11 require, according to the Guam Post-Closure Care and Maintenance Plan (July 2005)
12 prepared by Dueñas & Associates post-closure care and maintenance of the property
13 for thirty (30) years or until such time that it is deemed by the Administrator of the

1 Guam Environmental Protection Agency that there is a significant reduction in the
2 adverse effects to human health and the environment.

3 Therefore, *I Liheslaturan Guåhan* intends to clarify that Ordot-Chalan Pago is
4 eligible for the host community premiums during this post closure period and to give
5 the Municipal Planning Council ('Council') of the Host Community the governing
6 authority over these funds.

7 **SECTION 2.** Section 511005 and Section 511006, Chapter 51, Article 10 of
8 10 Guam Code Annotated are hereby amended to read:

9 **“§ 511005. Host Community Premiums.** The Host Community premium
10 *shall* be assessed from the opening of the *Inarajan* landfill until the closing of the
11 *Inarajan* landfill. The aggregate *Host Community premium* is One Hundred Fifty
12 Thousand Dollars (\$150,000) per year for the village of *Inarajan*, ~~and~~

13 The aggregate *Host Community premium* is One Hundred Fifty Thousand
14 Dollars (\$150,000) per year for the village of *Ordot*, as ~~adjusted~~ through the
15 duration of the post closure period, in conformance of the Guam Post Closure Care
16 and Maintenance Plan (2005) or subsequent post closure plan duly adopted by the
17 authorized agencies and entities, or until such time that the Administrator of the
18 Guam Environmental Protection Agency deems the land clear and free of any and
19 all toxins that could potentially harm the health of humans and/or the environment.

20 The *Host Community premium shall* be reviewed *at least* once every five (5)
21 years and may be adjusted by the Public Utilities Commission (PUC) to account
22 for factors such as inflation. The Public Utilities Commission (PUC) *shall*
23 equitably determine the *Host Community premium* for each residential and
24 commercial account.

25 **§ 511006. Host Community Fund Management.** ~~The management of the~~
26 Host Community Fund shall be the responsibility of maintained separate and apart
27 from all other government funds and managed by the Department of

1 Administration. *No* expenditure *shall* be made from the Fund that is *not* approved
2 by resolution of the respective Host Community Municipal Planning Councils of
3 the Host Community. The funds deposited in the Host Community Fund shall only
4 be used by the respective Host Community for the purposes of the Host
5 Community Benefit projects as described in § 511003 of this Article. The Host
6 Community Fund shall be subject to periodic audit by the Office of Public
7 Accountability, and *shall not be* subject to any transfer authority of I Maga'lahen
8 Guåhan.”

9 **SECTION 3.** Section 511007 and 511008, Chapter 51, Article 10 of 10
10 Guam Code Annotated are hereby added to read:

11 **“§ 511007. Exemption from Executive Budget Act.** The Host
12 Community Fund is exempt from the provisions of the Executive Budget
13 Law (5GCA Chapter 4).

14 **§ 511008. Line of Credit Authorized.**

15 **(a)** The Host Community Fund may be encumbered as collateral for a
16 loan or line of credit to advance its community benefit projects as described
17 in § 511003 of this Article. The Municipal Planning Council of the Host
18 Community is authorized to enter into such agreements necessary for the
19 acquisition of the loan or line of credit, with any lending institution chosen
20 under the applicable procurement rules, regulations and policies. Neither the
21 Host Community or the employees of the Municipal Planning Council of the
22 Host Community shall incur any personal liability for any loan agreement
23 lawfully entered into.”

24 **(b)** The Municipal Planning Council of the Host Community may
25 utilize the services of the GEDA in the securing any financing or line of
26 credit authorized in this section and any fees for GEDA’s services if utilized
27 are hereby waived.”

1 **SECTION 4.** Section 5120 is added to Chapter 5, Article 2, Part B of 5
2 Guam Code Annotated is to read:

3 “**§ 5120. Procurement Shall Be Delegated to the Municipal Planning**
4 **Council of the Host Community.** Notwithstanding any other provision of Guam
5 Procurement Law, the authority to procure supplies and services for the Host
6 Community shall be delegated by the Chief Procurement Officer to the Municipal
7 Planning Council of the Host Community.”

8 **SECTION 5. Severability.** If any of the provisions of this Act or the
9 application thereof to any person or circumstance is held invalid, such invalidity
10 *shall* not affect any other provision or application of this Act which can be given
11 effect without the invalid provision or application, and to this end the provisions of
12 this Act are severable.