

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

Bill No. 69-32(CO12)

Introduced by:

T.C. Ada
B.J. Cruz
R.J. Respicio

**AN ACT TO ADD A NEW SECTION §5351 TO CHAPTER 5 OF
TITLE 5 GCA, RELATIVE TO THE DURATION OF
COMMERCIAL LEASES FOR PUBLIC REAL PROPERTY
AND RELATED FACILITIES.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that there is
3 no uniform standard relative to the duration of commercial leases, permits or licenses for
4 the use of Government of Guam real property and other related facilities.

5 *I Liheslaturan Guåhan* finds that five (5) years is a reasonable term limit for
6 commercial leasing, permitting or licensing for the use of Government of Guam real
7 property and other related facilities, but also recognizes that terms beyond five years may
8 be warranted to allow time to amortize investments associated with substantial capital
9 improvements that have been solicited or other investments that improve the services,
10 capabilities and performance of the contracting agency by a quantifiable sum.

11 **Section 2.** §5351 of Chapter 5, Title 5 Guam Code Annotated is hereby added to read:

12 **“§5351. Commercial Leasing of Public Real Property and Related Facilities.**

13 a. **Public Real Property and Related Facilities.** From the effective date of
14 this law, and notwithstanding any other provision of law, no commercial
15 contract, lease, permit or license for use of public real property and related
16 facilities shall be solicited, negotiated, entered into, or made for a term in
17 excess of five (5) years. This shall include any extensions, options and
18 renewals. Any contract, lease, permit or license made, renewed or

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1 extended in violation of this law shall become void upon the fifth (5th)
2 anniversary of the making of such contract, lease, permit or license.

3 **b. Exceptional Term Leases.** The Chief Procurement Officer, the Director
4 of Public Works, or the Head of a purchasing agency, as authority may
5 exist therefore, may solicit a contract for a term longer than otherwise
6 allowed by this section (an “exceptional term contract”). Prior to
7 soliciting or making any exceptional term contract, the Governor, or in the
8 case of an autonomous agency the Board of Directors, shall make a
9 written Determination of Need justifying an exceptional term for such
10 contract, and provide a copy of such Determination of Need to the
11 Legislative Secretary. No exceptional term contract shall be solicited or
12 made unless, after obtaining the Determination of Need from the Governor
13 or in the case of an autonomous agency the Board of Directors, a notice of
14 solicitation therefore is published as provided in § 5211(c) of this Chapter,
15 such notice to conspicuously note the solicitation is for an Exceptional
16 Term Contract, and specifying the term thereof as well as the date of the
17 Governor’s Determination of Need. Any exceptional term contract made
18 in violation of this subsection shall be void.

19 **c. Legislative Approval Required for Exceptional Term Contracts.**

20 Subsequent to satisfying the requirements of §5351, the commercial
21 contract, lease, permit or license for use of public real property and related
22 facilities shall be transmitted to the Speaker of *I Liheslaturan Guåhan* for
23 approval or disapproval, in whole. If *I Liheslaturan Guåhan* takes no

1 action within sixty (60) calendar days from the date of filing with the
2 Speaker, the commercial contract, lease, permit or license shall be deemed
3 approved by *I Liheslaturan Guåhan*.”

4 **Section 3. Severability.** If any provision of this Act, or the application of any part
5 of this Act to any person or circumstance, is held to be invalid as contrary to law, or
6 unenforceable, such holding shall not affect any other provision hereof, nor any other
7 application of this Act which can be given effect to any other person or in any other
8 circumstance, and to this end the provisions of this Act are severable and the remainder
9 shall be construed in such manner as to avoid invalidity or unenforceability.

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