

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

Bill No. 112-32(CORP)

Introduced by:

T.C. Ada
R.J. Respicio

2013 MAY 19 PM 4:49

**AN ACT TO ADD NEW §§ 12015.5 (I) AND (J) OF CHAPTER 12,
TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE
CREATION OF AN AFFORDABLE HOUSING SYSTEM
DEVELOPMENT CHARGE (AHSDC).**

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds that
3 two public laws, P.L. 19-47 and P.L. 26-164, established the public policy for
4 implementing a System Development Charge (SDC) “by which new customers would be
5 responsible for the incremental costs associated with the construction of new water and
6 wastewater facilities to support those customers rather than requiring such costs to be
7 borne generally by the taxpayers of Guam or existing customers.”

8 The SDC is a common tool used by modern water utilities globally to balance the
9 interests of existing ratepayers who have paid for the existing system while allowing new
10 customers to join the system by making a contribution to expand the system to meet their
11 new demand. Since 2010, when the SDC was first implemented by the Guam
12 Waterworks Authority (“GWA”) with the approval of SDC charges by the Public
13 Utilities Commission (“PUC”), over 1,100 customers have paid the applicable SDC,
14 contributing \$3 million for system expansion to serve the increased demand on the
15 system their new structures create without burdening existing customers who are not
16 causing this growth.

17 *I Liheslaturan Guåhan* further finds that affordable housing is needed for Guam
18 and its people. In order to assist future homeowners and developers of affordable
19 housing, *I Liheslaturan Guåhan* has determined that reducing, but not completely
20 eliminating, the cost of system development charges required for moderate to low cost
21 affordable housing will assist Guam residents build new affordable homes without

1 creating an unfair burden on existing ratepayers or reducing the level of service for
2 existing and new customers.

3 It is for the purpose of balancing the interests of the community to sustain a
4 growing demand for water and wastewater services while making it easier for low and
5 moderate cost housing to be built that a graduated SDC be implemented.

6

7 **Section 2.** Section §12015.5 of Chapter 12, Title 12, Guam Code Annotated, is
8 hereby *amended* by *adding* new subsections (i) and (j) to create a new “Affordable
9 Housing System Development Charge” and allow for all system development charges for
10 single-family dwellings to be paid prior to occupancy as opposed to prior to permitting:

11 **“(i) Affordable Housing System Development Surcharge (AHSDC).**

12 **(1) AHSDC For Persons Who Construct Their Own Primary**
13 **Residences.** Any person who constructs, or causes to construct, a home where
14 said structure will be the primary residence for themselves or an immediate family
15 member as defined by 4 G.C.A. §4108(2) shall be charged 1.2% for water
16 connections and 1.8% for sewer connections of the actual cost to construct the
17 home and purchase the land in the event the actual total cost is One Hundred
18 Eighty Thousand Dollars (\$180,000) or less. GWA shall require reasonable proof
19 to be provided showing that the home will in fact be a primary residence. The
20 actual cost of a home includes the purchase price for the land, if any, and all
21 materials, labor and other amounts necessary for the single-family dwelling that is
22 constructed to fully comply with the Guam Building Code. The AHSDC shall not
23 apply to those persons who construct, or cause to construct, homes that do not
24 meet the requirements of the Guam Building Code, nor shall the charge apply to
25 persons renovating existing structures. GWA shall not provide water services to
26 any structure that does not fully comply with the Guam Building Code.

27 **(2) AHSDC For Persons Who Construct Affordable Homes With**
28 **Intent To Sell.** Any person who constructs a home which is to be sold, or is in
29 fact sold, prior to initial occupancy where the home costs One Hundred Eighty
30 Thousand Dollars (\$180,000) or less, shall be charged 1.2% for water connections
31 and 1.8% for sewer connection of the value of the sale price of the home. The

1 valuation shall include the purchase price for the entire lot where the home is
2 located. The valuation shall also include the actual cost of a home, inclusive of
3 all the materials, labor and other amounts necessary for a building to fully comply
4 with the Guam Building Code. The AHSDC is not applicable to those persons
5 who construct, or cause to construct, homes that do not meet the requirements of
6 the Guam Building Code or for developers who build homes where the final cost
7 of the home and lot exceed \$180,000.

8 (3) **Proof of Cost/Valuation.** In order to determine the correct value of a
9 home, the Guam Waterworks Authority shall have the authority to require
10 reasonable proof of such value of the home, which includes, but is not limited to:
11 (1) a schedule of costs signed by an engineer, contractor or architect licensed on
12 Guam, (2) purchase price of the land; (3) a complete breakdown of all costs
13 involved in the construction of the home to support the valuation claimed, or
14 proof of the purchase price of the home if purchased. An appraisal of the land is
15 not required in the event the land was not purchased. GWA may reject any claim
16 not reasonably founded or proven or for failure to provide any document
17 requested by GWA in support of such claim of valuation.

18 (4) Notwithstanding any other provision of law, persons who qualify for
19 the Amortized System Development Charge in subsection (b) above, and who are
20 constructing affordable homes for their own primary residence or the primary
21 residence of a family member as defined by 4 G.C.A. § 4108(2) (i) shall only be
22 required to pay 20% of the applicable SDC initially with the remainder capable of
23 being amortized over 15 years subject to the conditions specified in Sections (b)
24 of this subsection.

25 **(j) Timing of Payments Regarding System Development Charges for Single**
26 **Family Dwellings.**

27 (1) Notwithstanding any other requirement of law, the system development
28 charge for all single family dwellings may be paid at any time prior to initial
29 occupancy.

30 (2) Developers of property who sell single family dwellings are required to notify
31 subsequent purchasers of the need to pay system development charges prior to

1 occupying the home in the event an occupancy permit has not issued or been
2 applied for.

3 (3) GWA shall withhold water and sewer services until payment of any system
4 development charge is paid in full is made aside from those persons who
5 qualify for the Amortized System Development Charge as described in
6 subsection (b) above.”

7

8 **Section 3. Severability.** *If* any of the provisions of this law or its application to
9 any person or circumstance is found to be invalid or contrary to law, such invalidity shall
10 *not* affect other provisions or applications of this law which can be given effect without
11 the invalid provisions or application, and to this end the provisions of this law are
12 severable.

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14 **Section 4. Effective Date.** This Act shall become effective six (6) months from
15 the date of enactment.