

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

Bill No. 194-32 (cop)
Introduced by:

Michael F.Q. San Nicolas

AN ACT TO ADD A NEW CHAPTER 55 TO DIVISION
2, TITLE 12, GUAM CODE ANNOTATED AND A
NEW SUBSECTION (i) TO §103104 OF CHAPTER 10,
TITLE 11, GUAM CODE ANNOTATED, RELATIVE
TO THE ESTABLISHMENT OF A GUAM
INTRASTATE SECURITIES EXCHANGE UNDER THE
INTRASTATE OFFERING EXEMPTION OF THE
SECURITIES ACT OF 1933.

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1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Short Title. This Act shall be cited as the “Guam
3 Intrastate Securities Exchange Act”.

4 Section 2. Legislative Intent. *I Liheslaturan Guahân* finds that many
5 local businesses would benefit greatly by expanded access to additional
6 funding mechanisms for new or expanded operations. Under the Securities
7 Act of 1933, federal law provides that intrastate offerings of securities are
8 exempt from regulation by the Securities and Exchange Commission.

9 *I Liheslaturan Guahân* finds that, although the exemption allows for
10 intrastate offerings, there is no local mechanism established to facilitate the
11 offering and sale of intrastate securities by local businesses to local

1 investors. Without such a mechanism, the economic potential of this
2 exemption within the federal securities law is not yet realized.

3 *I Liheslaturan Guåhan* further finds that access to capital is a key
4 component of growth, and that current capital access is generally limited to
5 owner infusions and borrowing.

6 *I Liheslaturan Guåhan* finds that Public Law 26-76, which dissolved the
7 Department of Commerce, added the following language to the purposes
8 of the Guam Economic Development Authority (GEDA): “The Authority
9 *shall* promote and encourage the expansion and development of markets
10 for products of Guam. [...] The Authority *shall* promote and encourage
11 location and development of new businesses on Guam, as well as the
12 retention and expansion of existing businesses”. GEDA further, provides
13 direct loans through several programs to local businesses. It is, thus, a
14 natural extension of the mandate of GEDA to allow it to facilitate in the
15 provision of capital to local businesses through an intrastate securities
16 program.

17 Therefore, it is the intent of *I Liheslaturan Guahån* that the Guam
18 Economic Development Authority establish a Guam Intrastate Securities
19 Exchange program in compliance with federal and local laws and
20 regulations to facilitate the offering and sale of intrastate securities by local
21 companies to local investors by adding a new Chapter 55 to Division 2,
22 Title 22, Guam Code Annotated.

1 **Section 3. Guam Intrastate Securities Exchange.** A new Chapter 55
2 is hereby added to Division 2 of Title 12 of the Guam Code Annotated, to
3 read:

4 **“CHAPTER 55**

5 **GUAM INTRASTATE SECURITIES EXCHANGE**

6
7 Article 1. General Provisions.

8 Article 2. Guam Intrastate Securities Exchange Program.

9
10 **ARTICLE 1**

11 **GENERAL PROVISIONS**

12
13 § 55101. Short Title.

14 § 55102. Definitions.

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16 **§55101. Short Title.**

17 This Chapter shall be cited as the ‘Guam Intrastate Securities
18 Exchange Act’.

19 **§55102. Definitions.**

20 As used in this Chapter, unless the context in which they are used
21 requires a different meaning, or unless a different definition is prescribed
22 for a particular Chapter, Article or provision:

1 (a) 'Security' has the same meaning as provided in Section 2(a)(1) of
2 the Securities Act of 1933.

3 (b) 'Sale' or 'sell' have the same meanings as provided in Section
4 2(a)(3) of the Securities Act of 1933.

5 (c) 'Intrastate offering exemption' shall mean the exemption from
6 United States securities regulations offered by Section 3 Subsection (a)(11)
7 of the Securities Act of 1933 and regulations governing such exemption,
8 including Code of Federal Regulations Title 11 Chapter II §230.147.

9 (d) 'Issuer' has the same meaning as provided in Section 2(a)(4) of the
10 Securities Act of 1933.

11

12 ARTICLE 2

13 GUAM INTRASTATE SECURITIES EXCHANGE PROGRAM

14

15 § 55201. Creation.

16 § 55202. Purpose.

17 § 55203. Authority to Promulgate Rules and Regulations.

18 § 55204. Maintenance of Records

19

20 **§55201. Creation.**

21 There is created, within the Guam Economic Development Authority,
22 a Guam Intrastate Securities Exchange Program.

23 **§55202. Purpose.**

1 The purpose of the Guam Intrastate Securities Exchange Program
2 *shall* be to facilitate the issuance and exchange of intrastate offerings by
3 businesses established within the Territory of Guam and the government of
4 Guam inclusive of autonomous, semi-autonomous and other agencies and
5 instrumentalities of the government Guam, pursuant to the intrastate
6 offerings exemption of the Securities Act of 1933. The program *shall* help to
7 match issuers which desire to offer securities to invest in new or expanded
8 local operations with qualified local investors who are able to provide
9 capital to make these plans achievable. The program *shall* ensure that all
10 offerings, offerors and investors comply with the provisions of the
11 Intrastate Offering exemption and other federal and local laws and
12 regulations.

13 **§55203. Authority to Promulgate Rules and Regulations.**

14 The Board of Directors of the Guam Economic Development
15 Authority is hereby authorized to promulgate all necessary rules,
16 procedures and regulations for the administration of this Act and to
17 accomplish the purposes for which the Intrastate Securities Exchange
18 Program are established, pursuant to the Securities Act of 1933 and the
19 Administrative Adjudication Law. The program *shall* comply with all
20 aspects of federal and local securities and exchange laws and regulations
21 relative to intrastate offerings. Within one hundred eighty (180) days from
22 the enactment of this Act, the Board of Directors *shall* promulgate initial
23 rules and regulations governing the program, including a schedule of fees

1 to operate the program, all in consultation with the Banking and Insurance
2 Commissioner for the purposes of regulatory compliance.

3 **§ 55204. Maintenance of Records.**

4 Records of each transaction pursuant to the program established by
5 this Chapter *shall* be maintained by the Intrastate Securities Exchange
6 Program within GEDA for a minimum of five (5) years following the
7 completion of such transaction, or as further necessary to satisfy any action
8 brought by the Banking and Insurance Commissioner or the Securities and
9 Exchange Commission against any party until such transaction has reached
10 final resolution. It shall be the responsibility of each investor to maintain
11 all necessary transaction records in excess of five (5) years, and to report
12 and pay all applicable taxes to the government of Guam.”

13 **Section 4. Regulation of the Intrastate Security Exchange.** A new
14 Subsection (i) is hereby added to §103104 of Chapter 10, Title 11, Guam
15 Code Annotated, to read:

16 “(i) The Banking and Insurance Commissioner *shall* promulgate
17 necessary rules and regulations, pursuant to the Administrative
18 Adjudication Law in compliance with the Securities Act of 1933, to monitor
19 and enforce compliance of the Guam Intrastate Securities Exchange
20 Program of the Guam Economic Development Authority. Participating
21 issuers and investors *shall* be regulated in accordance with applicable
22 federal securities laws and regulations and applicable local laws and
23 regulations. The Regulatory Division of the Department of Revenue and

1 Taxation *shall* have jurisdiction for enforcement of the provisions of such
2 rules and regulations. The Commissioner *shall* promulgate initial rules and
3 regulations under this section within one hundred eighty (180) days of the
4 enactment of this Act, all in consultation with the Guam Economic
5 Development Authority Board of Directors to ensure regulatory
6 compliance.”