

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN
2014 (SECOND) Regular Session

Bill No. 416 -32 (cs))

Introduced by:

DENNIS G. RODRIGUEZ, JR. 

AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 58, 12 GCA, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF 1,600 NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND, PROVIDE FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA, BY ADDING A NEW § 58146.1 TO CHAPTER 58, 12 GCA.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that the
3 projected and desired growth of Guam's hotel industry requires the development of an
4 additional One Thousand Six Hundred (1,600) new hotel rooms. It is the *intent* of I
5 Liheslaturan Guåhan that a 'Special Qualifying Certificate' specifically for the
6 development of 1,600 new hotel rooms be enacted; authorizing the Economic
7 Development Authority to issue the certificates for this sole specific purpose.

8 It is, further, the intent of *I Liheslaturan Guåhan* that a *General Industry Specific*
9 *Qualifying Certificate Abeyance* be enacted and that no new Qualifying Certificates, or
10 the renewal of Qualifying Certificates, shall be approved and issued until such time as the
11 Guam Economic Development Authority has developed industry specific policy,
12 regulations, criteria and measurable goals ensuring the appropriate stimulation of
13 legitimate investment of new economic development, and which shall not include
14 industry specific development projects already satisfactorily established on Guam, so as
15 to ensure that the government not unnecessarily waive needed revenue for an industry
16 specific project category that already exists or is satisfactorily established.

1 **Section 2.** A NEW Article 2 is hereby *ADDED* to Chapter 58 of Title 12, Guam
2 Code Annotated, to read:

3 **“Article 2.**

4 **Special Qualifying Certificate; 1,600 Hotel Room Development**

5 § 58201. Legislative Findings and intent.

6 § 58202. Definitions.

7 § 58203. Benefits of a Special Hotel QC.

8 § 58204. Fees.

9 § 58205. Community Contributions.

10 § 58206. Sunset Provision.

11 § 58207. Severability.

12 **§ 58201. Legislative Intent.** *I Liheslaturan Guåhan* recognizes that the
13 Qualifying Certificate program of the Guam Economic Development Authority (the
14 Authority) was conceived as an economic incentive tool to entice investors into Guam.
15 In use for over four (4) decades, it has had substantial positive impact upon the economic
16 development of the territory, mainly in the tourist industry.

17 It is the goal of the Guam Visitors Bureau, under their Vision 2020, to build 1,600
18 new hotel rooms by 2020. Several companies have expressed interest in building hotel
19 rooms in Guam; however, Guam must offer incentives to compete with other tourism
20 markets.

21 Prospective developers have also expressed a reluctance to commit, as it is yet
22 unknown where Guam stands with the China Visa Waiver. This has caused a delay in the
23 development of our number one industry, and the Qualifying Certificate could provide
24 additional incentive to develop the 1,600 rooms in time to meet the 2020 deadline.

1 As such, the Legislature recognizes the aggressive goal of 1,600 hotel rooms by the
2 year 2020, and the Guam Qualifying Certificate Program shall be updated to provide
3 special incentives for hotel developers.

4 **§ 58202. Definitions.** For purposes of this Article 2, the following definitions will
5 apply:

- 6
- 7 1) Authority: The Guam Economic Development Authority (“GEDA”)
- 8 2) Hotel: for purposes of this Article and unless the context otherwise requires,
9 “hotel” means a building facility that contains guest rooms held out to the
10 public as a place where all transient persons, including but not limited to
11 tourists, who come will be accommodated and entertained as guests for
12 compensation based on daily or weekly rates.
- 13 3) Construction Cost: Expenses incurred by a developer for the construction of any
14 new hotel or for the expansion of any existing hotel in Guam. Such costs
15 include land acquisition, building & site improvements, A&E and FF&E.
- 16 4) Hotel Expansion: Existing Guam hotels may be eligible for this special hotel
17 QC if new capital investment is to be made that will add to the hotel’s room
18 inventory.
- 19 5) Renovation Cost: Expenses incurred from modernizing the elements within a
20 structural part of real property, whose total costs are no less than 20% of the
21 property value and that either:
 - 22 a. Materially increases the value of the property,
 - 23 b. Substantially prolongs the useful life of the property, or
 - 24 c. Adapts the property to a new or better use.
- 25 6) Property Value: means the current appraised value of the land and
26 improvements. The cost of such appraisal shall be born by the hotel developer.
- 27 7) Business Privilege Tax (“BPT”): The tax that is levied on business revenues as
28 imposed by §26201 of Article 2, Chapter 26, Title 11, GCA

1 8) Use Tax: The tax that is levied on the landed value of or consumption of all
2 property as defined by Chapter 28 of Title 11 GCA.

3 **§ 58203. Special Hotel Qualifying Certificate Defined.** The *Special Hotel*
4 *Qualifying Certificate (QC)* is a contract valid for a given period, executed by the
5 Governor of Guam upon the recommendation of the Authority. The QC, once issued and
6 unless suspended, rescinded or revoked, shall constitute conclusive evidence of
7 entitlement to the tax rebates, abatements, or exemptions set forth on its face.

8 (a) Hotel Construction and Expansion Tax Rebate and Abatement. There shall be
9 allowed to each developer a tax rebate, exemption and abatement in an amount equal to
10 Ten Percent (10%) of their total construction cost, which can be applied by the developer
11 at their discretion to the following taxes:

- 12 1. 50% Business Privilege Tax (“BPT”) for 20 years as long as the tax credits are
13 available at the point they are taken.
 - 14 • This BPT exemption shall not apply to the levy of three percentage points
15 (3%), out of the total percentage points levied from time to time, of the
16 BPT, the revenues from which are pledged to the Government of Guam
17 Business Privilege Tax Bonds;
- 18 2. 75% Income Tax Rebate for 20 Years;
- 19 3. 100% Real Property Tax Abatement for 10 years, provided the fee simple
20 owner tax payer is the Qualifying certificate beneficiary and that the real
21 property on which the tax is assessed is only utilized by the Beneficiary for
22 activities identified in their qualifying certificate;
- 23 4. 100% of Use Tax Exemption with respect to the property used to construct,
24 furnish and equip the new facility construction or substantial expansion of an
25 existing building. The exemption must be claimed no later than one (1) year of
26 issuance of the facility’s occupancy permit.

1 **b) Application Period.** Eligible developer for this special QC shall file their
2 application prior to issuance of the hotel project building permit.

3 **c) Benefit Negotiations.** THE AUTHORITY has the sole authority to negotiate
4 the terms of the QC. Negotiation shall be completed prior to issuance of the hotel
5 project's building permit.

6 **§ 58204. Fees.**

	Application & Modification Filing Fee	Annual Compliance Monitoring Fee
Hotels:	\$5,000.00	
Under Construction:		\$3,000.00
In Operation:		\$50/per room

7 As to the annual compliance monitoring fees, the fee shall be assessed annually
8 until such time as the QC beneficiary has exhausted the total dollar amount of its QC
9 benefit.

10 **§ 58205. Community Contributions.** As a condition of this *Special Hotel QC*, the
11 QC beneficiary shall make a community contribution to the Authority in an amount equal
12 to 0.5% of the total hotel construction cost. The terms of the community contributions
13 shall be subject to negotiations between the Authority and the developer. Distribution of
14 funds to be approved by the GEDA Board based on the recommendation of the
15 Administrator, to the following areas:

- 16 • Funding for the maintenance and upkeep of certain tourist attractions or to support
17 other tourism projects;

- 1 • Economic Development with a priority on the promotion of industry and small
- 2 business; and
- 3 • Higher Education & Cultural Preservation.

4 **§58206. “Sunset” Provision.** This Article shall take effect on its approval by *I*
5 *Maga’lahen Guåhan* and shall remain in effect until the earlier of:

- 6 • Five (5) years;
- 7 • 1,600 hotels rooms have been committed to be built or;
- 8 • A China Visa Waiver or China Visa Parole declaration has been approved for
- 9 Guam.

10 Upon which period this Article shall automatically be deemed repealed; *provided,*
11 however, that the GEDA Board, at its discretion, with input from the Legislature, the
12 visitor industry, the Administration and the community as a whole, will re-examine the
13 effectiveness and need of the program to determine if it should be extended and may
14 extend the effectiveness of this Article an additional two (2) years by adopting a
15 resolution to such effect prior to the expiration date. Any QC issued under the conditions
16 of this Article, shall remain in full force and effect until its particular term expires or it is
17 canceled on other grounds.

18 **§58207. Severability.** If any provision of this Law or its application to any person or
19 circumstance is found to be invalid or contrary to Law, such invalidity shall not affect or
20 provisions or applications of this Law which can be given effect without the invalid
21 provisions or application and to this end the provisions of this Law are severable.”

22 **Section 3.** A new § 58146.1 is hereby *ADDED* to Chapter 58, Title 12, Guam Code
23 Annotated, to read:

24 **“§ 58146.1. Qualifying Certificate; Abeyance Thereof. Development of**
25 **Industry Specific Policy, Regulations, Criteria and Measurable Goals.**

1 (a) Hotel Qualifying Certificate; Abeyance thereof. Except as provided pursuant to
2 Article 2 of Chapter 58, 12, GCA, no renewal of Qualifying Certificates, for hotels shall
3 be approved and issued until such time as the Guam Economic Development Authority
4 has developed, pursuant to Article 3 of Chapter 9, 5 GCA, industry specific policy,
5 regulations, criteria and measurable goals ensuring appropriate stimulation of legitimate
6 investment of new economic development.

7 (b) General Industry Specific; Abeyance thereof. No new Qualifying Certificates, or
8 the renewal of Qualifying Certificates, shall be approved and issued until such time as the
9 Guam Economic Development Authority has developed, pursuant to Article 3 of Chapter
10 9, 5 GCA, industry specific policy, regulations, criteria and measurable goals ensuring
11 the appropriate stimulation of legitimate investment of new economic development, and
12 which *shall* not include industry specific development projects already satisfactorily
13 established on Guam, so as to ensure that the government not unnecessarily waive needed
14 revenue for an industry specific project category that already exists or is satisfactorily
15 established.

16 (c) The Guam Economic Development Authority *shall* submit, by no later January 30,
17 2015, the proposes promulgated industry specific policy, regulations, criteria and
18 measurable goals to the Legislature for approval, as provided pursuant to Article 3 of
19 Chapter 9, 5 GCA.”

20 **Section 4. Severability.** If any provision of this Act or its application to any person
21 or circumstance is found to be invalid or contrary to law, such invalidity shall not affect
22 other provisions or applications of this Act which can be given effect without the invalid
23 provisions or application, and to this end the provisions of this Act are severable.

24 **Section 5.** This Act *shall* become immediately effective upon enactment.