

I Mina'Trentai Dos Na Liheslaturan Guahan
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
112-32 (COR), P.L. 32-075	T. C. Ada, R.J. Respicio	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).	05/10/13 4:49 p.m.	05/10/13	Committee on Public Safety, Infrastructure, & Maritime Transportation	06/12/13 6:00 p.m.	08/26/13 3:23 p.m.	Fiscal Note Requested 05/13/13 Fiscal Note Received 05/20/13
	DATE PASSED	TITLE	TRANSMITTED		DUE DATE	<small>DATE SIGNED BY I MAGA'LAHEN GUAHAN</small>	PUBLIC LAW NO.	NOTES
	11/12/2013	AN ACT TO AMEND § 12015.5(b), AND TO ADD NEW SUBSECTIONS (i) AND (j) TO § 12015.5 OF CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF AN AFFORDABLE HOUSING SYSTEM DEVELOPMENT CHARGE (AHSDC).	11/15/13	11:28 a.m.	11/27/2013	11/27/2013	32-075	As substituted by the Committee on Public Safety, Infrastructure and Maritime Transportation; and amended on the Floor.

EDDIE BAZA CALVO
Governor



RAY TENORIO
Lieutenant Governor

Office of the Governor of Guam

NOV 27 2013

Honorable Judith T. Won Pat, Ed.D.
Speaker
I Mina'trentai Dos Na Liheslaturan Guåhan
155 Hesler Street
Hagåtña, Guam 96910

32-13-1038
Office of the speaker
Judith T. Won Pat, Ed. D.
Date 11.29.13
Time 9:54 am
Received by: [Signature]

2013 NOV 27 AM 11:13

Dear Madame Speaker:

Transmitted herewith is Bill No. 112-32 (COR) "AN ACT TO AMEND § 12015.5(b), AND TO ADD NEW SUBSECTIONS (i) AND (j) TO § 12015.5 OF CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF AN AFFORDABLE HOUSING SYSTEM DEVELOPMENT CHARGE (AHSDC)" which I signed into law on November 27, 2013 as **Public Law 32-075**.

Senseramente,

EDDIE BAZA CALVO

1038



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

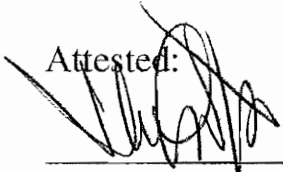
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 112-32 (COR), "AN ACT TO AMEND § 12015.5(b), AND TO ADD NEW SUBSECTIONS (i) AND (j) TO § 12015.5 OF CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF AN AFFORDABLE HOUSING SYSTEM DEVELOPMENT CHARGE (AHSDC)"**, was on the 12th day of November 2013, duly and regularly passed.



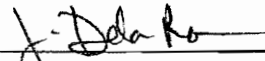
Judith T. Won Pat, Ed.D.
Speaker

Attested:



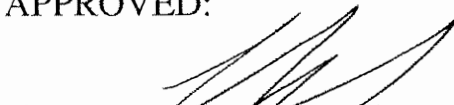
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 15th day of Nov.,
2013, at 11:28 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



EDWARD L.B. CALVO
I Maga'lahaen Guåhan

Date: NOV 27 2013

Public Law No. 32-075

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

Bill No. 112-32 (COR)

As substituted by the Committee on Public Safety,
Infrastructure and Maritime Transportation;
and amended on the Floor.

Introduced by:

T. C. Ada
T. R. Muña Barnes
R. J. Respicio
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
Vicente (ben) C. Pangelinan
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

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

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan* finds
that two public laws, P.L. 19-47 and P.L. 26-164, established the public policy for
implementing a System Development Charge (SDC) “by which new customers
would be responsible for the incremental costs associated with the construction of

1 new water and wastewater facilities to support those customers rather than
2 requiring such costs to be borne generally by the taxpayers of Guam or existing
3 customers.”

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

13 *I Liheslatura* finds that affordable housing is needed for Guam and its
14 people. In order to assist future homeowners and developers of affordable housing,
15 *I Liheslatura* has determined that reducing, but *not* completely eliminating, the cost
16 of system development charges required for moderate to low cost affordable
17 housing will assist Guam residents in building new affordable homes without
18 creating an unfair burden on existing ratepayers or reducing the level of service for
19 existing and new customers.

20 *I Liheslatura* further finds it appropriate and beneficial to move the
21 collection of the System Development Charge from the building permit stage to the
22 occupancy permit stage. Such a shift will negate the need for developers to front
23 the cost of the SDC far in advance of the sale of the house, thus lowering the cost
24 of development, while still ensuring that GWA receives the full amount necessary
25 to protect existing ratepayers from the impact of new development. Additionally, *I*
26 *Liheslatura* finds it appropriate to delete the “low or moderate income” language in
27 the section of existing GCA dealing with the Amortized System Development

1 Charge, thus making it clear that the ASDC *shall* be made available for all
2 customers building a single family dwelling, regardless of income.

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
5 and moderate cost housing to be built, that a graduated SDC, as outlined by this
6 legislation, be implemented.

7 **Section 2.** §12015.5 (b) of Chapter 12, Title 12, Guam Code Annotated, is
8 hereby *amended* to read as follows:

9 “(b) Pursuant to its authority, the Commission *shall* immediately
10 begin proceedings to promptly establish and approve the water and sewer
11 system development charge schedule for GWA. The Commission has the
12 authority to adopt and approve a charge schedule for GWA which complies
13 with Subsection (a) of this Section, including, a schedule which *shall* be
14 known as the Amortized System Development Charge (ASDC) for residents
15 who are constructing or purchasing a single family dwelling intended for
16 their personal residence and/or for immediate family members. Such charge
17 *shall* be assessed at an initial amount of *no less than* ten percent (10%) of the
18 total SDC charge due, and the remainder of the charge *shall* be amortized
19 over a period *not to exceed* fifteen (15) years, in which the charge plus
20 interest, at a rate established by the Guam Public Utilities Commission, is
21 added to the monthly GWA billing for the dwelling at a rate in which the
22 total annually assessed charge *shall not* exceed the initial charge; and
23 provided, that nothing herein shall limit the Commission’s authority and
24 jurisdiction to establish and approve General Lifeline Rates for GWA, which
25 may apply to the water and sewer development charge schedule. The charge
26 schedule *shall* be applied to users and developers by GWA upon its adoption

1 and approval by the Commission, and *no* charges *shall* be assessed prior to
2 adoption and approval by the Commission.

3 (1) ASDC Applicability. The ASDC *shall not* apply to any
4 commercial development involving the construction of multiple
5 residential units.

6 (2) ASDC *Not* Transferable. Should a homeowner paying an
7 ASDC decide to sell or transfer the property, on which the ASDC
8 applies, to a person who is *not* an immediate family member or who
9 qualifies for the ASDC under this Chapter, then full payment of any
10 balances owed for the ASDC *shall* be paid prior to registration of the
11 sale and transfer of the property at the Department of Land
12 Management, and prior to the transfer of the original owner's
13 water/wastewater account to the new owner and/or occupant of the
14 residence."

15 **Section 3.** New Subsections (i) and (j) to are hereby *added* to §12015.5 of
16 Chapter 12, Title 12, Guam Code Annotated, to read as follows:

17 "(i) Affordable Housing System Development Charge (AHSDC).

18 (1) AHSDC For Persons Who Construct Their Own Primary
19 Residences. Any person who constructs, or causes to construct, a
20 home where said structure will be the primary residence for
21 themselves or an immediate family member as defined by 4 GCA
22 §4108 (2) *shall* be charged 1.01% for water connections and 1.65%
23 for sewer connections of the actual cost to construct the home and
24 purchase the land in the event the actual total cost is Two Hundred
25 Ten Thousand Dollars (\$210,000) or less. GWA *shall* require
26 reasonable proof to be provided showing that the home will in fact be
27 a primary residence. The actual cost of a home includes the purchase

1 price of the land, if any, and all materials, labor, and other amounts
2 necessary for the single-family dwelling that is constructed to fully
3 comply with the Guam Building Code. The AHSDC *shall not* apply to
4 those persons who construct, or cause to be constructed, homes that
5 *do not* meet the requirements of the Guam Building Code, nor shall
6 the charge apply to persons renovating existing structures. GWA *shall*
7 *not* provide water services to any structure that *does not* fully comply
8 with the Guam Building Code.

9 (2) AHSDC For Persons Who Construct Affordable Homes
10 With Intent To Sell. Any person who constructs a home which is to be
11 sold, or is in fact sold, prior to initial occupancy where the home costs
12 Two Hundred Ten Thousand Dollars (\$210,000) or less, *shall* be
13 charged 1.01% for water connections and 1.65% for sewer
14 connections of the value of the sale price of the home. The valuation
15 *shall* include the purchase price for the entire lot where the home is
16 located. The valuation *shall* also include the actual cost of a home,
17 inclusive of all the materials, labor, and other amounts necessary for a
18 building to fully comply with the Guam Building Code. The AHSDC
19 is *not* applicable to those persons or developers who construct, or
20 cause to be constructed, homes that *do not* meet the requirements of
21 the Guam Building Code, or where the total cost, pursuant to
22 Subsection (3) below, of the home and lot exceed \$210,000.

23 (3) Proof of Cost/Valuation. In order to determine the correct
24 value of a home, the Guam Waterworks Authority *shall* have the
25 authority to require reasonable proof of such value of the home, which
26 includes, but is *not* limited to: (A) a schedule of costs signed by an
27 engineer, contractor or architect licensed on Guam; (B) purchase price

1 of the land; and (C) a complete breakdown of all costs involved in the
2 construction of the home to support the valuation claimed, or proof of
3 the purchase price of the home if purchased. An appraisal of the land
4 is *not* required in the event the land was not purchased. GWA may
5 reject any claim not reasonably founded or proven, or for failure to
6 provide any document requested by GWA in support of such claim of
7 valuation.

8 (4) Reevaluation. *At least* once every five years, the Guam
9 Waterworks Authority *shall* review the Median Household Income for
10 Guam, as published by the HUD Median Income Statistic, and *shall*
11 then adjust the total cost threshold requirement of the AHSDC, set at
12 \$210,000, accordingly.

13 (j) Timing of Payments Regarding System Development Charges
14 for Single Family Dwellings.

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

18 (2) Developers of property who sell single family dwellings
19 are required to notify subsequent purchasers of the need to pay system
20 development charges prior to occupying the home, in the event an
21 occupancy permit has *not* issued or been applied for.

22 (3) GWA *shall* withhold water and sewer services until the
23 payment of any system development charge is paid in full, aside from
24 those persons who qualify for the Amortized System Development
25 Charge as described in §12015.5 (b)."

26 **Section 4. Severability.** *If* any of the provisions of this law or its
27 application to any person or circumstance is found to be invalid or contrary to law,

1 such invalidity *shall not* affect other provisions or applications of this law which
2 can be given effect without the invalid provisions or application, and to this end the
3 provisions of this law are severable.

4 **Section 5. Effective Date.** This Act *shall* become effective six (6) months
5 from the date of enactment.



FILE COPY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN

THIRTY-SECOND GUAM LEGISLATURE

155 Hesler Place, Hagåtña, Guam 96910

November 13, 2013

The Honorable Edward J.B. Calvo

I Maga'lahren Guåhan

Ufisinan I Maga'lahi

Hagåtña, Guam 96910

OFFICE OF THE GOVERNOR
CENTRAL FILES

J. Dela Rosa

RECEIVED BY
TIME 11:28 AM DATE 11/15/13

Dear *Maga'lahi* Calvo:

Transmitted herewith are Bill and Substitute Bill Nos. 35-32(COR), 74-32(LS), 75-32(LS), 91-32(COR), 94-32(COR), 98-32(LS), 99-32(LS), 108-32(COR), 112-32(COR), 116-32(COR), 133-32(COR), 134-32(COR), 140-32(COR), 141-32(COR), 143-32(COR), 145-32(LS), 150-32(COR), 153-32(COR), 154-32(COR), 156-32(COR), 157-32(COR), 158-32(COR), 160-32(COR), 161-32(COR), 162-32(LS), 165-32(COR), 170-32(LS), 176-32(COR), 189-32(COR), 193-32(COR), 194-32(COR), 195-32(COR), 196-32(COR), 200-32(COR), 205-32(COR), 210-32(COR), 211-32(COR) and 217-32(LS) which were passed by *I Mina'Trentai Dos Na Liheslaturan Guåhan* on November 12, 2013.

Sincerely,

Tina Rose Muña Barnes
Legislative Secretary

Enclosures (38)

FILE COPY

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

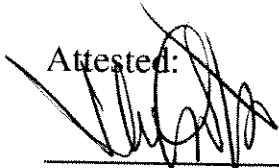
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Judith T. Won Pat, Ed.D.
Speaker

Attested:



Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'laken Guåhan* this 15th day of Nov.,
2013, at 11:28 o'clock A.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'laken Guåhan

Date: _____

Public Law No. _____

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

Bill No. 112-32 (COR)

As substituted by the Committee on Public Safety,
Infrastructure and Maritime Transportation;
and amended on the Floor.

Introduced by:

T. C. Ada
T. R. Muña Barnes
R. J. Respicio
V. Anthony Ada
FRANK B. AGUON, JR.
B. J.F. Cruz
Chris M. Dueñas
Michael T. Limtiaco
Brant T. McCreadie
Tommy Morrison
Vicente (ben) C. Pangelinan
Dennis G. Rodriguez, Jr.
Michael F. Q. San Nicolas
Aline A. Yamashita, Ph.D.
Judith T. Won Pat, Ed.D.

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1 new water and wastewater facilities to support those customers rather than
2 requiring such costs to be borne generally by the taxpayers of Guam or existing
3 customers.”

4 The SDC is a common tool used by modern water utilities globally to
5 balance the interests of existing ratepayers who have paid for the existing system,
6 while allowing new customers to join the system by making a contribution to
7 expand the system to meet their new demand. Since 2010, when the SDC was first
8 implemented by the Guam Waterworks Authority (GWA) with the approval of the
9 SDC charges by the Public Utilities Commission (PUC), over 1,100 customers
10 have paid the applicable SDC, contributing 3 Million Dollars for system expansion
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14 people. In order to assist future homeowners and developers of affordable housing,
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21 collection of the System Development Charge from the building permit stage to the
22 occupancy permit stage. Such a shift will negate the need for developers to front
23 the cost of the SDC far in advance of the sale of the house, thus lowering the cost
24 of development, while still ensuring that GWA receives the full amount necessary
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26 *Liheslatura* finds it appropriate to delete the “low or moderate income” language in
27 the section of existing GCA dealing with the Amortized System Development

1 Charge, thus making it clear that the ASDC *shall* be made available for all
2 customers building a single family dwelling, regardless of income.

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4 growing demand for water and wastewater services, while making it easier for low
5 and moderate cost housing to be built, that a graduated SDC, as outlined by this
6 legislation, be implemented.

7 **Section 2.** §12015.5 (b) of Chapter 12, Title 12, Guam Code Annotated, is
8 hereby *amended* to read as follows:

9 “(b) Pursuant to its authority, the Commission *shall* immediately
10 begin proceedings to promptly establish and approve the water and sewer
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12 authority to adopt and approve a charge schedule for GWA which complies
13 with Subsection (a) of this Section, including, a schedule which *shall* be
14 known as the Amortized System Development Charge (ASDC) for residents
15 who are constructing or purchasing a single family dwelling intended for
16 their personal residence and/or for immediate family members. Such charge
17 *shall* be assessed at an initial amount of *no less than* ten percent (10%) of the
18 total SDC charge due, and the remainder of the charge *shall* be amortized
19 over a period *not to exceed* fifteen (15) years, in which the charge plus
20 interest, at a rate established by the Guam Public Utilities Commission, is
21 added to the monthly GWA billing for the dwelling at a rate in which the
22 total annually assessed charge *shall not* exceed the initial charge; and
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26 schedule *shall* be applied to users and developers by GWA upon its adoption

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4 commercial development involving the construction of multiple
5 residential units.

6 (2) ASDC *Not* Transferable. Should a homeowner paying an
7 ASDC decide to sell or transfer the property, on which the ASDC
8 applies, to a person who is *not* an immediate family member or who
9 qualifies for the ASDC under this Chapter, then full payment of any
10 balances owed for the ASDC *shall* be paid prior to registration of the
11 sale and transfer of the property at the Department of Land
12 Management, and prior to the transfer of the original owner's
13 water/wastewater account to the new owner and/or occupant of the
14 residence."

15 **Section 3.** New Subsections (i) and (j) to are hereby *added* to §12015.5 of
16 Chapter 12, Title 12, Guam Code Annotated, to read as follows:

17 "(i) Affordable Housing System Development Charge (AHSDC).

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19 Residences. Any person who constructs, or causes to construct, a
20 home where said structure will be the primary residence for
21 themselves or an immediate family member as defined by 4 GCA
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23 for sewer connections of the actual cost to construct the home and
24 purchase the land in the event the actual total cost is Two Hundred
25 Ten Thousand Dollars (\$210,000) or less. GWA *shall* require
26 reasonable proof to be provided showing that the home will in fact be
27 a primary residence. The actual cost of a home includes the purchase

1 price of the land, if any, and all materials, labor, and other amounts
2 necessary for the single-family dwelling that is constructed to fully
3 comply with the Guam Building Code. The AHSDC *shall not* apply to
4 those persons who construct, or cause to be constructed, homes that
5 *do not* meet the requirements of the Guam Building Code, nor shall
6 the charge apply to persons renovating existing structures. GWA *shall*
7 *not* provide water services to any structure that *does not* fully comply
8 with the Guam Building Code.

9 (2) AHSDC For Persons Who Construct Affordable Homes
10 With Intent To Sell. Any person who constructs a home which is to be
11 sold, or is in fact sold, prior to initial occupancy where the home costs
12 Two Hundred Ten Thousand Dollars (\$210,000) or less, *shall* be
13 charged 1.01% for water connections and 1.65% for sewer
14 connections of the value of the sale price of the home. The valuation
15 *shall* include the purchase price for the entire lot where the home is
16 located. The valuation *shall* also include the actual cost of a home,
17 inclusive of all the materials, labor, and other amounts necessary for a
18 building to fully comply with the Guam Building Code. The AHSDC
19 is *not* applicable to those persons or developers who construct, or
20 cause to be constructed, homes that *do not* meet the requirements of
21 the Guam Building Code, or where the total cost, pursuant to
22 Subsection (3) below, of the home and lot exceed \$210,000.

23 (3) Proof of Cost/Valuation. In order to determine the correct
24 value of a home, the Guam Waterworks Authority *shall* have the
25 authority to require reasonable proof of such value of the home, which
26 includes, but is *not* limited to: (A) a schedule of costs signed by an
27 engineer, contractor or architect licensed on Guam; (B) purchase price

1 of the land; and (C) a complete breakdown of all costs involved in the
2 construction of the home to support the valuation claimed, or proof of
3 the purchase price of the home if purchased. An appraisal of the land
4 is *not* required in the event the land was not purchased. GWA may
5 reject any claim not reasonably founded or proven, or for failure to
6 provide any document requested by GWA in support of such claim of
7 valuation.

8 (4) *Reevaluation.* At least once every five years, the Guam
9 Waterworks Authority *shall* review the Median Household Income for
10 Guam, as published by the HUD Median Income Statistic, and *shall*
11 then adjust the total cost threshold requirement of the AHSDC, set at
12 \$210,000, accordingly.

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

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

18 (2) Developers of property who sell single family dwellings
19 are required to notify subsequent purchasers of the need to pay system
20 development charges prior to occupying the home, in the event an
21 occupancy permit has *not* issued or been applied for.

22 (3) GWA *shall* withhold water and sewer services until the
23 payment of any system development charge is paid in full, aside from
24 those persons who qualify for the Amortized System Development
25 Charge as described in §12015.5 (b).”

26 **Section 4. Severability.** *If* any of the provisions of this law or its
27 application to any person or circumstance is found to be invalid or contrary to law,

1 such invalidity *shall not* affect other provisions or applications of this law which
2 can be given effect without the invalid provisions or application, and to this end the
3 provisions of this law are severable.

4 **Section 5. Effective Date.** This Act *shall* become effective six (6) months
5 from the date of enactment.

LEGISLATIVE SESSION

I MINA'TRENTAI DOS NA LIHESLATURAN

2013 (FIRST) Regular Session

Voting Sheet

Bill No. 112-32 (COR)

Speaker Antonio R. Unipingo Legislative Session Hall

As substituted by the Committee on Public Safety,
Infrastructure and Maritime Transportation; and
amended on the Floor.

November 12, 2013

NAME	Yea	Nay	Not Voting/ Abstained	Out During Roll Call	Absent
Senator Thomas "Tom" C. ADA	✓				
Senator V. Anthony "Tony" ADA	✓				
Senator Frank Blas AGUON Jr.	✓				
Vice-Speaker Benjamin J.F. CRUZ	✓				
Senator Christopher M. DUENAS	✓				
Senator Michael LIMTIACO	✓				
Senator Brant McCREADIE	✓				
Senator Thomas "Tommy" MORRISON	✓				
Senator Tina Rose MUÑA BARNES	✓				
Senator Vicente (ben) Cabrera PANGELINAN	✓				
Senator Rory J. RESPICIO	✓				
Senator Dennis G. RODRIGUEZ, Jr.	✓				
Senator Michael F. Q.SAN NICOLAS	✓				
Speaker Judith T. WON PAT, Ed.D.	✓				
Senator Aline A. YAMASHITA, Ph.D.	✓				

TOTAL

15

Yea

Nay

Not Voting/
Abstained

Out During
Roll Call

Absent

CERTIFIED TRUE AND CORRECT:

I = Pass

Clerk of the Legislature



Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation
I Mina'trentai Dos Na Liheslaturan Guåhan • 32nd Guam Legislature

AUG 21 2013

The Honorable Judith T. Won Pat, Ed.D.

Speaker

I Mina'trentai Dos Na Liheslaturan Guåhan

155 Hesler Place

Hagåtña, Guam 96910

VIA: The Honorable Rory J. Respicio

Chairperson, Committee on Rules

RE: Committee Report on Bill No. 112-32 (COR) As Substituted

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Bill No. 112-32 (COR), As Substituted – “An act to add new §12015.5 (I) and (J) of Chapter 12, Title 12 GCA, relative to the creation of an Affordable Housing System Development Charge (AHSDC).”

Committee votes are as follows:

<u>5</u>	TO DO PASS
<u>0</u>	TO NOT PASS
<u>1</u>	TO REPORT OUT ONLY
<u>0</u>	TO ABSTAIN
<u>0</u>	TO PLACE IN INACTIVE FILE

Si Yu'os ma'åse',

Thomas C. Ada

2013 AUG 26 PM 3:23



Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation
I Mina'trentai Dos Na Libeslaturan Guåhan • 32nd Guam Legislature

COMMITTEE REPORT ON

Bill No. 112-32 (COR), As Substituted

**“An act to add new §12015.5 (I) and (J)
of Chapter 12, Title 12 GCA, relative to
the creation of an Affordable Housing
System Development Charge (AHSDC).”**

**As Substituted by the
Committee on Public Safety,
Infrastructure and Maritime Transportation**




Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation
I Mina'trentai Dos Na Libeslaturan Guåhan • 32nd Guam Legislature

August 5, 2013

MEMORANDUM

To: **All Members**
Committee on Public Safety, Infrastructure and Maritime Transportation

From: **Senator Thomas C. Ada** 
Committee Chairperson

Subject: **Committee Report on Bill No. 112-32 (COR) As Substituted**

Transmitted herewith for your consideration is the Committee Report on Bill No. 112-32 (COR), As Substituted – “An act to add new §12015.5 (I) and (J) of Chapter 12, Title 12 GCA, relative to the creation of an Affordable Housing System Development Charge (AHSDC).”

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Bill No. 112-32 (COR), As Introduced
- Copy of Bill No. 112-32 (COR), As Substituted
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony and Supporting Documents
- COR Referral of Bill No. 112-32 (COR)
- Notices of Public Hearing
- Public Hearing Agenda

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

Si Yu'os ma'åse'!






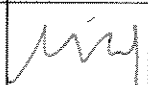






Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation
I Mina'trentai Dos Na Libeslaturan Guahan • 32nd Guam Legislature

COMMITTEE VOTE SHEET

Bill No. 112-32 (COR), As Substituted – T. C. Ada – An act to add new §12015.5 (I) and (J) of Chapter 12, Title 12 GCA, relative to the creation of an Affordable Housing System Development Charge (AHSDC).

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
SENATOR THOMAS C. ADA Chairperson		<input checked="" type="checkbox"/>				
SENATOR RORY J. RESPICIO Vice Chairperson		 8-21-13				
VICE SPEAKER BENJAMIN J.F. CRUZ Member		 8/5/13				
SENATOR FRANK B. AGUON, JR. Member						
SENATOR MICHAEL F.Q. SAN NICOLAS Member				 8/5/13		
SENATOR ALINE A. YAMASHITA, PH.D. Minority Member						
SENATOR V. ANTHONY ADA Minority Member		<input checked="" type="checkbox"/>				
SENATOR BRANT McCREADIE Minority Member		 8-16-13				

COMMITTEE REPORT DIGEST

I. OVERVIEW

Bill 112-32 (COR) was introduced on May 10, 2013 by Senator Thomas C. Ada and was subsequently referred by the Committee on Rules to the Committee on Public Safety, Infrastructure and Maritime Transportation on May 10, 2013.

The Committee on Public Safety, Infrastructure and Maritime Transportation convened a public hearing on Bill 112-32 (COR) on June 12, 2013 at 6 pm in *I Liheslatura's* Public Hearing Room to receive public testimony on the measure.

Public Notice Requirements

Public Hearing notices were disseminated via email to all senators and all main media broadcasting outlets on June 4, 2013 (5-Day Notice), and again on June 10, 2013 (48-Hour Notice).

Senators Present

Senator Thomas C. Ada	Committee Chairperson
Senator Rory Respicio	Vice Chairperson
Senator V. Anthony Ada	Minority Member
Senator Aline Yamashita	Minority Member
Senator Michael San Nicholas	Member
Vice Speaker Benjamin Cruz	Member
Senator Tina Muna-Barnes	
Senator Thomas Morrison	

The public hearing was Called-to-Order at 6:05 pm.

II. SUMMARY OF TESTIMONY AND DISCUSSION

Simon Sanchez, Chairman, Consolidated Commission on Utilities

Provided oral and written testimony (see attached)

Mr. Sanchez expressed support for Bill 112-32 (COR) on the basis that it “better balances the needs of new homeowners and existing ratepayers”. Instead of placing the focus on the buyer’s income, Bill 112-32 focuses on the cost of the construction (inclusive of the cost of land acquisition, if any). For projects costing less than \$180,000, new homeowners will only have to pay a maximum of three percent of the cost of the house. Instead of paying the \$5600 in SDC, the homeowner purchasing an \$80,000 home will only have to pay \$2400 in SDC. Additionally, SDC can be further lessened to 1.2% (of the total cost of the house) if the area is not serviced by GWA sewer services and the homeowner uses a septic tank. Hence, the homeowner would only be assessed SDC for water services. Mr. Sanchez argues that the approach outlined in Bill 112-32 truly promotes more affordable housing for lower income families.

Throughout his testimony, he stresses that “Growth must pay for growth.” If SDC is totally eliminated for developers constructing affordable housing, it will place an unnecessary burden on existing ratepayers by paying for growth that they did not cause.

Mr. Sanchez concludes that we all must share in the sacrifice to ensure that we always have enough water and wastewater capacity for existing and future customers.

Ernest Sablan Wusstig

Provided oral testimony

Mr. Wusstig comes forward as a resident of Guam. He is not in favor of the bill because he believes that there are other ways for GWA to get revenue. The people should not have to pay three thousand dollars just so that they can get water. He encourages the senators to find other sources of revenue and help GWA.

Carlos Camacho, Executive Director, Micronesia Community Development Corporation

Provided oral testimony

Mr. Camacho is in favor of the bill. Current SDC is being used to increase water and wastewater capacity, allowing for more homes to connect to the system. This is favorable for developers like him because it allows him to truly promote affordable housing.

Discussion

Vice Chair Respcio commends Mr. Sanchez for his objective analysis of the bill.

Senator Michael San Nicholas asked if 72 percent was collected for water and 28 percent for wastewater, why is more being spent on wastewater and less being spent on water? If the cost of the SDC is truly for the equity investment of the existing infrastructure, why is less of the SDC charge going towards that infrastructure they're paying for?

Mr. Sanchez responded that it wasn't a matter of acting proportionately, but rather spending the money where it can be most effective in reducing the impact of new customers on the system. The SDC also lessens the amount of money we need to borrow in order to upgrade and modernize the entire system. However, the borrowed money may only be used for improving and repairing current facilities. It doesn't talk about new growth, because the thinking is, new growth is funded by the SDC.

Senator Michael San Nicholas responded that his understanding was that the SDC is intended to pay for the new demand coming into the system and the necessary upgrades needed to compensate for that new demand. As such, each dollar collected for connecting to the water system (72 percent of the total SDC collected to date) must be spent only on water upgrades, while each dollar collected for connecting to the waterworks system (28 percent of the total SDC to date) must be spent on wastewater upgrades. If those proportions are not maintained, it causes him to question the SDC altogether as whether or not it's actually going to meet that capacity impact that it's intended to meet.

Mr. Sanchez clarifies that system upgrades, whether water or wastewater, are costly projects that often require significant funding. As such, they cannot be developed in small portions. For example, if a new well is needed, the cost may exceed the specific proportion of the SDC collected for water-related connections in that given year. However, by also using funds

collected for wastewater-related connections, GWA will be able to fund the entire project and provide the best “bang for the buck” to benefit new customers. Because new customers impact the system so heavily, exceeding even the amount collected by the SDC, it is important to spend the limited SDC funds on the most cost effective projects. He also responds that the expectation is that the new homeowners will connect to the wastewater system.

Chairman Ada further clarifies that, because the long-term intent is for all customers to eventually be on the wastewater system (and get of septic tanks), SDC funds collected for water-related connections and then spent on wastewater-related projects will still ultimately benefit all new customers to the system.

Senator Tina Muna-Barnes states that when this bill was introduced, there were some concerns regarding village wastewater systems and costs of laying a six-inch line required by GWA to connect residents who live far from main water pipes.

Mr. Sanchez gives an example. Let’s say it costs \$10,000 to lay down your six-inch pipes and connect to the main water system. Should existing ratepayers pay for it? You can’t have a policy that allows someone to build a house but not pay for all costs involved in its construction. Additionally, there is a policy that requires houses 500 feet from a wastewater pipe to hook up to the system. However, most houses still make use of their septic tanks that have been there since the house was built. We don’t want to force people who have had their septic tank for 40 years to connect to the wastewater system just because they are now within its 500 feet reach. But now the times are changing, and EPA will not allow new homeowners to build their own septic tank. Therefore, we need to increase our wastewater capacity for those homeowners who will connect to the wastewater system. Unfortunately it costs more to upgrade the wastewater system, that’s why the figures seem disproportionate. More people have to hook up to wastewater and it costs more to upgrade it.

Vice Speaker Benjamin Cruz refers to the written testimony and asks if there is any need for the bill.

Mr. Sanchez responds that some people might still want it; it’s their choice. It’s a great help to individual homeowners and developers alike. The current law also requires the PUC to revisit it every three years. Right now we can make \$5600 for SDC work. If the PUC sees fit to change the SDC, we’ll defer to their judgment and see what they come up with.

Senator Tommy Morrison asks if there are plans to increase capacity at the wastewater treatment facility in the south.

Mr. Sanchez responds yes. As part of the 2011 court order, we are required to rehabilitate all the wastewater facilities.

Senator Aline Yamashita: Who are the GWA police? Are there people from GWA who go out to look for the illegal hookups and help to fix it?

Mr. Sanchez: Yes. (Referred to staff)

Mr. Sam Taylor, GWA legal counsel: Yes we have components to investigate, process, and correct those with illegal connections.

Senator Aline Yamashita asks if we try to mitigate.

Mr. Taylor responds that the penalties are statutory and set by law. GWA may sometimes go after the contractor hired if they are the ones who illegally connected the pipes. Rate protection unit is responsible for checking meters to make sure that it reads properly, is connected properly, everyone has an account and is paying their bills on time.

Senator Michael San Nicholas refers to Table 2. Do we assess SDC charges with the federal government if the military taps into our sewer system?

Mr. Sanchez responds yes; however, the navy makes their own water at Fena and Andersen has their own wells. We provide them with wastewater services, but not water services. Andersen has been using our wastewater system since before 2010, when the SDC law was implemented, so they are treated like existing ratepayers.

Senator Michael San Nicholas asks whether or not there have been new wastewater hookups on the base.

Mr. Sanchez says that when they construct new buildings, there is more flow into the main wastewater system, but currently there is no mechanism allowing us to charge them because they don't get construction permits from us, so it's hard for us to track what's being built on the base.

Senator Michael San Nicholas asks if they're adding to the demand on the system but existing ratepayers are the ones who are paying for that increase.

Mr. Sanchez responds saying that there is a law that prohibits us from assessing additional SDC from those ratepayers who wish to extend their home. That same logic would also apply to the military.

Senator Michael San Nicholas asks if there would be any wastewater SDC charges towards the military should there be a dramatic increase in development on their bases.

Mr. Sanchez responds no. When the first buildup was occurring, we negotiated \$400 million worth of impact from the DoD and Japan, but that buildup didn't happen, so we have no impact.

Vice Speaker Benjamin Cruz refers to Table 2 and asks could you find out the contribution of the Layon Landfill to the wastewater facilities?

Mr. Sanchez responds that they are creating an impact and they do pay for it.

Chairman Ada concludes hearing. The public hearing was adjourned at 7:45 pm.

III. FINDINGS AND RECOMMENDATIONS

On June 12, 2013, the Committee on Public Safety, Infrastructure and Maritime Transportation held a public hearing on Bill 112-32 (“An act to add new §§ 12015.5. I and J of Chapter 12, Title 12, Guam Code Annotated, relative to the creation of a Affordable Housing System Development Charge”, authored by Senator Tom Ada and Senator R.J. Respicio).

The intent of the bill is to provide a more affordable System Development Charge by making the charge proportional to the cost of the home being built, and postponing its due date from the building permit stage to the occupancy permit stage. The substitute bill further includes an amendment to extend the ASDC to all residential customers regardless of their income qualifications, a practice that is currently in place but not explicitly codified in Guam law. By instituting these changes, which have the support of the CCU, GWA, and general public, two significant goals can be realized: 1) the SDC will continue to serve as a secure source of funding to reduce the impact of development on existing ratepayers, thus keeping rates low; and 2) the fees new customers face when connecting to the waterworks system will become more affordable for those who need it.

Given the goals outlined above, the Committee has substituted Bill 112-32 (COR) with the following substantive changes:

- A new Section 2 was added to delete the “low or moderate income” language in the section of existing GCA dealing with the ASDC. Such a change makes it clear that the ASDC shall be made available for all customers building a single family dwelling, regardless of income.
- The new Section 2 also amends the requirement for the initial charge of an ASDC to be \$1,000. The new language sets this initial charge to no less than 10% of the total charge due, in order to provide the flexibility to the PUC to adopt regulations that will accommodate those customers wanting to utilize both a graduated SDC and an amortized SDC.

The Committee on Public Safety, Infrastructure and Maritime Transportation hereby reports out Bill 112-32 (COR), As Substituted by the Committee, with the recommendation To Pass.

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

Bill No. 112-32(COR)

Introduced by:

T.C. Ada
R.J. Respicio

2013 MAY 18
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.

13
14 **Section 4. Effective Date.** This Act shall become effective six (6) months from
15 the date of enactment.

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

Bill No. 112-32 (COR)

As Substituted by the Committee on Public Safety,
Infrastructure and Maritime Transportation

Introduced by:

T.C. Ada
T.R. Muna Barnes
R.J. Respicio

**AN ACT TO AMEND §12015.5(b), AND ADD NEW §§ 12015.5 (i)
AND (j), TO 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

1 system their new structures create without burdening existing customers who are not
2 causing this growth.

3 *I Liheslatura* finds that affordable housing is needed for Guam and its people. In
4 order to assist future homeowners and developers of affordable housing, *I Liheslatura* has
5 determined that reducing, but not completely eliminating, the cost of system development
6 charges required for moderate to low cost affordable housing will assist Guam residents
7 build new affordable homes without creating an unfair burden on existing ratepayers or
8 reducing the level of service for existing and new customers.

9 *I Liheslatura* further finds it appropriate and beneficial to move the collection of
10 the System Development Charge from the building permit stage to the occupancy permit
11 stage. Such a shift will negate the need for developers to front the cost of the SDC far in
12 advance of the sale of the house, thus lowering the cost of development while still
13 ensuring that GWA receives the full amount necessary to protect existing ratepayers from
14 the impact of new development. Additionally, *I Liheslatura* finds it appropriate to delete
15 the “low or moderate income” language in the section of existing GCA dealing with the
16 Amortized System Development Charge, thus making it clear that the ASDC shall be
17 made available for all customers building a single family dwelling, regardless of
18 income.

19 It is for the purpose of balancing the interests of the community to sustain a
20 growing demand for water and wastewater services while making it easier for low and
21 moderate cost housing to be built that a graduated SDC, as outlined by this legislation, be
22 implemented.

1 **Section 2.** §12015.5(b) of Chapter 12, Title 12, Guam Code Annotated, is
2 hereby *amended* to read as follows:

3 “(b) Pursuant to its authority, the Commission shall immediately begin
4 proceedings to promptly establish and approve the water and sewer system
5 development charge schedule for GWA. The Commission has the authority to
6 adopt and approve a charge schedule for GWA which complies with Subsection
7 (a) of this Section, including, a schedule which shall be known as the Amortized
8 System Development Charge (ASDC) for ~~low or moderate income~~ residents who
9 are constructing or purchasing a single family dwelling intended for their personal
10 residence and/or for immediate family members ~~and who meet the criteria for low~~
11 ~~or moderate income as defined by the Guam Housing Corporation.~~ Such charge
12 shall be assessed at an initial amount of ~~One Thousand Dollars (\$1,000.00)~~ no
13 less than 10% of the total SDC charge due and the remainder of the charge shall
14 be amortized over a period not to exceed fifteen (15) years, in which the charge
15 plus interest is added to the monthly GWA billing for the dwelling at a rate in
16 which the total annually assessed charge shall not exceed the initial charge, and
17 provided, that nothing herein shall limit the Commission’s authority and
18 jurisdiction to establish and approve General Lifeline Rates for GWA which may
19 apply to the water and sewer development charge schedule. The charge schedule
20 shall be applied to users and developers by GWA upon its adoption and approval
21 by the Commission, and no charges shall be assessed prior to adoption and
22 approval by the Commission.

1 (1) ASDC Applicability. The ASDC shall not apply to any
2 commercial development involving the construction of multiple residential
3 units.

4 (2) ASDC Not Transferable. Should a home owner paying an
5 ASDC decide to sell or transfer the property, on which the ASDC applies,
6 to a person who is not an immediate family member or who qualifies for
7 the ASDC under this Chapter, then full payment of any balances owed for
8 the ASDC shall be paid in full prior to registration of the sale and transfer
9 of the property at the Department of Land Management and prior to the
10 transfer of the original owner's water/wastewater account to the new
11 owner and/or occupant of the residence."

12 **Section 3.** New Subsections (i) and (j) to §12015.5 of Chapter 12, Title 12,
13 Guam Code Annotated, are hereby *added* to read as follows:

14 **“(i) Affordable Housing System Development Charge (AHSDC).**

15 (1) AHSDC For Persons Who Construct Their Own Primary Residences.
16 Any person who constructs, or causes to construct, a home where said structure
17 will be the primary residence for themselves or an immediate family member as
18 defined by 4 G.C.A. §4108(2) shall be charged 1.2% for water connections and
19 1.8% for sewer connections of the actual cost to construct the home and purchase
20 the land in the event the actual total cost is One Hundred Eighty Thousand Dollars
21 (\$180,000) or less. GWA shall require reasonable proof to be provided showing
22 that the home will in fact be a primary residence. The actual cost of a home
23 includes the purchase price for the land, if any, and all materials, labor and other

1 amounts necessary for the single-family dwelling that is constructed to fully
2 comply with the Guam Building Code. The AHSDC shall not apply to those
3 persons who construct, or cause to construct, homes that do not meet the
4 requirements of the Guam Building Code, nor shall the charge apply to persons
5 renovating existing structures. GWA shall not provide water services to any
6 structure that does not fully comply with the Guam Building Code.

7 (2) AHSDC For Persons Who Construct Affordable Homes With Intent
8 To Sell. Any person who constructs a home which is to be sold, or is in fact sold,
9 prior to initial occupancy where the home costs One Hundred Eighty Thousand
10 Dollars (\$180,000) or less, shall be charged 1.2% for water connections and 1.8%
11 for sewer connection of the value of the sale price of the home. The valuation
12 shall include the purchase price for the entire lot where the home is located. The
13 valuation shall also include the actual cost of a home, inclusive of all the
14 materials, labor and other amounts necessary for a building to fully comply with
15 the Guam Building Code. The AHSDC is not applicable to those persons or
16 developers who construct, or cause to construct, homes that do not meet the
17 requirements of the Guam Building Code or where the total cost, pursuant to
18 subsection 3 below, of the home and lot exceed \$180,000.

19 (3) Proof of Cost/Valuation. In order to determine the correct value of a
20 home, the Guam Waterworks Authority shall have the authority to require
21 reasonable proof of such value of the home, which includes, but is not limited to:
22 (1) a schedule of costs signed by an engineer, contractor or architect licensed on
23 Guam, (2) purchase price of the land; (3) a complete breakdown of all costs

1 involved in the construction of the home to support the valuation claimed, or
2 proof of the purchase price of the home if purchased. An appraisal of the land is
3 not required in the event the land was not purchased. GWA may reject any claim
4 not reasonably founded or proven or for failure to provide any document
5 requested by GWA in support of such claim of valuation.

6 (4) Reevaluation. At least once every five years, the Guam Waterworks
7 Authority shall review the Median Household Income for Guam as published by
8 the Guam Department of Labor's Bureau of Labor and Statistics and shall then
9 adjust the total cost threshold requirement of the AHSDC, set at \$180,000,
10 accordingly.

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

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

16 (2) Developers of property who sell single family dwellings are required
17 to notify subsequent purchasers of the need to pay system development
18 charges prior to occupying the home in the event an occupancy permit has not
19 issued or been applied for.

20 (3) GWA shall withhold water and sewer services until payment of any
21 system development charge is paid in full aside from those persons who
22 qualify for the Amortized System Development Charge as described in
23 §12015.5(b) above."

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

6 **Section 5. Effective Date.** This Act shall become effective six (6) months from
7 the date of enactment.

I Liheslaturan Guðhan, Hagáña

Bill 112-32 T.C. Ada, R.J. Respcio

An act to add new §§ 12015.5 (I) and (J) of Chapter 12, Title 12, Guam Code Annotated, relative to the creation of a Affordable Housing System Development Charge (AHSDC).

[illegible]

June 12, 2013

The Honorable Senator Tom Ada

Chairman

Committee on Public Safety, Infrastructure and Marine Transportation

32nd Guam Legislature

Testimony on Bills 92-32 and 112-32 relative to establishing a different System Development charge for new housing

Good evening Senator Ada, members of the committee and fellow ratepayers,

I am Simon Sanchez, Chairman of the Consolidated Commission on Utilities, the elected governing body of our island's utilities. I wish to testify on two pieces of legislation that raise important questions on the best and most fair way to pay for water and wastewater infrastructure.

Both bills propose changing the way new infrastructure should be paid for by new customers joining the system for the first time. By changing what new customers might pay to join the system, both bills also change the impact on 41,000 existing GWA ratepayers. What new customers don't pay for infrastructure required to meet their growth shifts the burden of the cost of new infrastructure to existing ratepayers, even though existing rate payers are not causing any of the growth. Charging existing ratepayers for costs they did not create while completely eliminating or discounting these costs for new customers is the central debate between whether any changes should be made to existing law, and if so, in what ways that serve the best interest of the entire community.

Bill 93-32, introduced by Senator Barnes, proposes to eliminate the System Development Charge (SDC) for new residential ratepayers who can purchase/build houses costing as much as \$450,000 in an effort to promote the construction of "affordable" homes. Bill 93 would effectively eliminate the SDC for 99% of all new homes that would ever be built on Guam. As a result, existing ratepayers would have to pick up the tab for 99% of all new housing infrastructure, even though they are not building any of the new homes that need the additional water and wastewater infrastructure.

Bill 112-32, introduced by Senators Tom Ada and Rory Respicio, proposes to reduce--- but not eliminate the SDC--- for homes that cost less than \$180,000. This Bill focuses on helping those new homeowners who cannot afford homes that cost more than \$180,000. Those who can afford houses that cost more than \$180,000 would still pay the full SDC.

This Bill recognizes that new homeowners who can afford houses that cost more than \$180,000 have more financial resources and as such can use a small portion of their resources to pay for

the infrastructure they need. Bill 112 proposes a graduated SDC, targeted at affordable housing that is priced within the reach lower to moderate income families. The lower the cost of housing, the lower the SDC would be. In our view, this bill better balances the interests between new customers and existing ratepayers.

History of current SDC

Before going into more details on the two pieces of legislation, let us first summarize the history of the current SDC law.

Two laws were passed that required an SDC to be developed and assessed on new customers joining the system for the first time (P.L. 19-47 and P.L. 26-164). These laws recognize the concept that "new customers would be responsible for the incremental costs associated with the construction of new water and wastewater facilities to support those customers rather than requiring such costs to be borne generally by the taxpayers or existing customers" (P.L. 26-164, which became law in 2003).

SDC's exist not only on Guam but are also used extensively throughout the developed world. "Google" SDC and you will see it is the community standard for hundreds of communities around the world.

SDC laws recognize that infrastructure is not free. For infrastructure to exist, someone must pay for it. The policy question then becomes what is the most fair and equitable way to determine who pays for what. What should 41,000 existing customers be responsible for? What should new future customers that will take more water out of the system and put more wastewater into the system be responsible for?

Existing law currently says new customers have an obligation to existing ratepayers to pay for their impact so that service to existing customers is not degraded. They also must help pay for expanding the system to handle the additional growth they cause.

The law requires GWA to establish a SDC, subject to approval by the Public Utilities Commission (PUC). In 2010, GWA and the PUC conducted independent analysis to determine what would be an appropriate SDC rate to apply. The parties agreed on an approach that recognized two principles:

- 1) New ratepayers benefit from being able to tie in to an existing system built by previous ratepayers and as such should contribute to match the "equity" earned and paid for by previous ratepayers;
- 2) New ratepayers will create a cumulative impact that requires more infrastructure to be built in order to service their new demand without degrading service to existing ratepayers.

From the 2010 PUC order:

"The parties agreed to utilize a hybrid "methodology" for the determination of SDCs that encompasses the use of the equity (buy-in) and incremental methodologies. "

"The equity or "buy-in component is premised upon future customers buying in to GWA's existing system to achieve equity between new and existing customers. This approach assesses new customers a fee to approximate the level of equity existing customers have in the system. The incremental component is derived by considering GWA's planned capital improvement projects for meeting the growth needs of its water and wastewater systems"

In January 2010, the PUC adopted a rate order which established the residential SDC as shown below. The PUC also set the SDC for other customers, depending on their meter size.

There is an SDC for water and an SDC for wastewater. Not all customers hook up to the GWA wastewater system so many homeowners projects only pay the water SDC. The Sewer SDC illustrates how much more costly it is to provide wastewater infrastructure than water.

**SCHEDULE OF SYSTEM DEVELOPMENT CHARGES AS
ADOPTED BY THE GUAM PUBLIC UTILITIES COMMISSION**

Water Meter Size	Water SDC	Sewer SDC	Total SDC
5/8" x 3/4"	\$2,126 (38%)	\$3,474 (62%)	\$5,600 (100%)

Current law allows the SDC to be paid up front or it can be amortized over fifteen years if an applicant meets certain income requirements.

SDC to date:

Since 2010, GWA has assessed 983 SDC charges totaling \$4.27 million (see attached tables 1 and 2).

72% of the SDC payments were for water and only 28% for wastewater. This difference reflects the fact that sewer systems are not available island-wide. Less than half of GWA's existing ratepayers are tied to GWA's wastewater system.

Residential customers accounted for 90% of total water SDC applications and 80% of wastewater applications.

ORDER: Contract ID
RANGE: Begin Date

Contract Balance Report
Balances As Of: 05/31/2013

Time: 6:41 PM
Page: 20

Contract ID	Name(s)	Type	Begin	Permit_no	Prop_use	Princ. Paid	Princ. Bal.
SDC1064		ASDCW	04/19/2013	B12000396	single family	2,26.0	0.0
SDC1065		ASDCW	04/24/2013	B13000314	single family	2,126.00	0.00
SDC1066		ASDCW	04/24/2013	B13000315	single family	2,126.00	0.00
SDC1067		ASDCW	04/25/2013	B13000298	single family	2,126.00	0.00
SDC1068		ASDCW	04/26/2013	B13000324	single family	2,126.00	0.00
SDC1069		ASDCW	04/26/2013	B13000325	single family	2,126.00	0.00
SDC1070		ASDCW	05/01/2013	B13000223	single family	2,126.00	0.00
SDC1071		ASDCW	05/01/2013	B13000323	single family	2,126.00	0.00
SDC1072		ASDCW	05/02/2013	B13000328	single family	2,126.00	0.00
SDC1073		ASDCW	05/06/2013	B13000295	single family	2,126.00	0.00
SDC1074		ASDCW	05/07/2013	B13000362	single family	2,126.00	0.00
SDC1075		ASDCW	05/14/2013	B13000322	apartment	25,512.00	0.00
SDC1076		ASDCWW	05/14/2013	B13000322	apartment	41,688.00	0.00
SDC1077		ASDCW	05/21/2013	B13000342	single family	2,126.00	0.00
SDC1078		ASDCW	05/15/2013	B13000389	single family	2,126.00	0.00
SDC1079		ASDCW	05/22/2013	B12000976	single family	2,126.00	0.00
SDC1080		ASDCW	05/24/2013	B13000138	Commercial bldg	17,011.00	0.00
SDC1081		ASDCWW	05/24/2013	B13000138	Commercial bldg	27,795.00	0.00
SDC1082		ASDCW	05/29/2013	B13000035	single family	2,126.00	0.00
						4,270,785.36	100,103.92
						4,270,785.36	100,103.92

Total Records Included: 983

TABLE !

TABLE 2

Description of SDC Application as of 4/30/13		2010	2011	2012	2013
Residential	single family - Water SDC	166	237	156	68
	single family - Wastewater SDC	53	80	58	26
	Town House - Water SDC		1		
	Town House - Wastewater SDC		1		
	2 Single Family - Water SDC		1		
	2 Single Family - Wastewater SDC		1		
	Two or more families - Water SDC		1		
	Two or more families - Wastewater SDC		1		
Commercial/Residential	Duplex - Water SDC	2	2		
	Duplex - Wastewater SDC	2	2		
	4 units apartment - Water SDC	1			
	4 units apartment - Wastewater SDC	1			
	72 units apartment - Water SDC	1			
	72 units apartment - Wastewater SDC	1			
	9 unit Apartment - Water SDC	1			
	9 unit Apartment - Wastewater SDC	1			
	10 unit apartment - Water SDC				1
	10 unit apartment - Wastewater SDC				1
	Multi-family - Water SDC			2	2
	Multi-family - Wastewater SDC			2	2
	4 unit townhome - Water SDC		1		
	4 unit townhome - Wastewater SDC		1		
	60 apartment - Water SDC		1		
	60 apartment - Wastewater SDC		1		
	Apartment - Water SDC			2	
	Apartment - Wastewater SDC			2	
	commercial - Water SDC	4	12	8	1
	commercial - Wastewater SDC	3	10	4	1
Commercial	Field Office - Water SDC	1			
	Field Office - Wastewater SDC	1			
	Laundry Mat - Water SDC	1	1	1	
	Laundry Mat - Wastewater SDC	1	1	1	
	Storage - Water SDC	1	2		
	Storage - Wastewater SDC	0	1		
	Hospital - Water SDC				1
	Hospital - Wastewater SDC				1
	church - Water SDC	1		1	
	church - Wastewater SDC	0	1	0	
	Restaurant - Water SDC		1		
	Restaurant - Wastewater SDC		1		
	Office Building - Water SDC			2	
	Office Building - Wastewater SDC			2	
	Work Force Housing - Water SDC		1		
	Work Force Housing - Wastewater SDC		1		
	Warehouse - Water SDC		3	1	
	Warehouse - Wastewater SDC		2	1	
	Surgical Center - Water SDC			1	
	Surgical Center - Wastewater SDC			1	
Gov't	Community Center - Water SDC		1		
	Community Center - Wastewater SDC		0	1	
	Public Housing Facility - Water SDC		1		
	Public Housing Facility - Wastewater SDC		1		
Misc.	N/a - Water SDC	1			
	N/a - Wastewater SDC	1			
	Grading and Clearing - Water SDC			1	
	Grading and Clearing - Wastewater SDC			0	
	Water and Power Pedestal - Water SDC		1		
	Water and Power Pedestal - Wastewater SDC		0		
	Rehabilitation - Water SDC			1	
	Rehabilitation - Wastewater SDC			1	
		2010	2011	2012	2013
Water SDC		180	267	176	73
Wastewater SDC		64	105	73	31

Residential	
Water	630
Wastewater	220

Commercial/Residential	
Water	16
Wastewater	16

Commercial	
Water	44
Wastewater	33

Government	
Water	2
Wastewater	2

Miscellaneous	
Water	4
Wastewater	2

Totals	
696	
273	

Despite the ability to amortize the SDC, only \$100,000 of the \$4.27 million is being amortized. 99% of the applicants paid the SDC up front instead of amortizing it.

2011 saw the most water SDC applications (267) but 2013 is trending to have the most applications since 2010 (292).

In summary, almost 700 customers have provided \$4.27 million in SDC since 2010 to pay for system expansion to meet their demand. This is \$4.27 million that existing ratepayers will not have to pay for new demand they are not creating.

How will GWA spend the SDC?

As Table 3 shows, GWA will spend \$1.5 million to build a new water well and \$2.8 million to expand wastewater capacity by 2014 in order to serve these 700 new customers.

What will it cost to provide infrastructure for 3,000 new residential structures?

Our elected officials have set a goal of 3,000 new “affordable” houses. We all agree that this is a worthy goal.

Table 4 illustrates the cost of providing additional infrastructure to 1000 new housing structures. For water, every 1000 new houses will require 2 new water wells to be built, at a cost of \$1.2 million per well. To bring the additional water from these new wells to customers, another \$625,000 in transmission and distribution lines must be built. For every 1000 new housing structures, it costs \$3 million to provide their additional water.

Similarly, for every 1,000 customers who tie into the wastewater system, GWA must spend \$3.3 million to expand wastewater treatment and collection capacity.

In total, \$6.34 million in new infrastructure is required for every 1,000 new houses.

For 3,000 new structures, the system will need almost \$19 million in new infrastructure.

The question now before all of us is who should pay this \$19 million?

Bill 92 proposes that existing ratepayers should pay all this \$19 million and new customers should pay essentially nothing.

Bill 112-32 proposes that new customers must still pay full SDC for houses if they have the financial resources to afford houses that cost more than \$180,000. For houses that cost less than \$180,000, the Bill lowers---but does not eliminate--- the SDC to a maximum of 3% of the total housing costs. The lower and more affordable the cost of a house, the lower the SDC would be. But regardless of cost, all new structures would still pay some level of SDC in order to reduce burdens on existing ratepayers.

Summary Table for System Development Charge Planned Expenditures

FS – Funding Source		2013	2014	2015	2016	2017	2018
		FS (x1000)	FS (x1000)	FS (x1000)	FS (x1000)	FS (x1000)	FS (x1000)
PW 09-02	Water Wells		B2013 2,000 SRF 1,660 SDC 1,500	B2013 2,200 SDC 500	IFCIP 2,500 SDC 500	B2015 3,000 SDC 500	B2018 4,000
WW 09-11	WWTP Priority 1 Upgrades		SDC 1,300	SDC 300	SDC 300	SDC 300	SDC 300
WW 12-01	Northern District WWTP Primary Treatment Upgrades	B2010 30	SDC 1,500				

Table 4

Water and Wastewater Infrastructure Needs Related to New Water Demand and Wastewater Load			
	1000 household		
	Number of Household	1,000	household
	Average number of people per household	4	people
	Calculated Total number of people	4,000	people
	Gallons of water/person/day (per capita consumption)	125	gpppd
	Calculated Total gallons of water/day for people	500,000	gpd
	Calculated Total gallons/minute needed	347	gpm
	Average well production rate	225	gpm
Production Wells	Calculated required number of production wells (round up)	2	1.54 round to 2
	Rough cost estimate for new production well	\$ 1,200,000	
	Calculated cost for new production wells	\$ 2,400,000	
Transmission Line	Estimated length of 8" diameter transmission water main per well to existing system	2,500	linear feet
	Calculated total length of 8" diameter water main for production wells	5,000	linear feet
	Cost of 8" diameter transmission water main	\$ 125	
	Calculated Cost for new transmission line	\$ 625,000	
Calculated Total cost for infrastructure needs (Wells and transmission line)		\$ 3,025,000	
Calculated cost per household		\$ 3,025	
	1000 household		
	Number of new wastewater customers.	1,000	households
	Average number of people per household	4	people
	Calculated Total number of people	4,000	people
	Gallons of wastewater/person/day (per capita consumption) (80% of 125gpppd)	100	gpppd
	Calculated Total gallons of wastewater/day generated from people	400,000	gpd
	Calculated Million gallons of wastewater/day generated from people	0.40	MGD
Collection system Improvements	Rough cost estimate for upgrade of SPS's main SPS to handle increase in wastewater load	\$ 1,000,000	
	Rough cost estimates per linear foot of gravity line including SM.	\$ 250	
	Estimated length of gravity line to be increased in size from closest SPS to treatment plant back to collection system	5280	
	Calculated cost for wastewater infrastructure needs (collection line)	\$ 1,320,000	
WWTP	Rough cost estimated for Wastewater Treatment Plant Improvements relative to compliance (chlorination system)	\$ 1,000,000	
Calculated Total cost for wastewater infrastructure needs (SPS, gravity line, WWTP)		\$ 3,320,000	
Calculated cost per household		\$ 3,320	
Total cost estimate for Water and Wastewater infrastructure needs per household		\$ 6,345	

During the original military buildup, the most consistent themes we heard from our community was that the federal government and the Department of Defense must pay for its impact. The community has made it very clear that “growth must pay for growth”.

The two Bills being heard this evening propose to make an exception to this community view in exchange for another public good: affordable housing. The challenge before lawmakers is determining the proper balance between these competing goals.

Analysis of the two proposals: Bill 93-32

Bill 93-32 proposes that “affordable homes” won’t have to pay any SDC. It appears to define “affordable” to mean that “users” or “developers/builders” “whose total household income does not exceed one hundred fifty percent (150%) of the median family income for Guam as set by HUD or USDA “... shall be exempt from payment of the SDC”.

In addition to exempting these user/developer/builders, the Bill appears to give special powers to GHURA to certify “property” “as meeting the affordable housing eligibility criteria” and exempts these properties as well. However, the Bill contains no clear language instructing GHURA as to what criteria should be used for “affordable housing eligibility” but once GHURA decides, those eligible also don’t pay the SDC.

In 2013, the HUD Median Household Income was \$52,800.

(Median Income, 2013 HUD defined for Guam = \$52,800
(<https://sites.google.com/site/guammortgage/limits/hud-median-income-limits>)

Using the HUD/USDA standard that limits mortgages to be below 30% of gross income, a borrower could spend \$1320 per month on a thirty year mortgage and could borrow up to \$210,000 for housing.

Affordable Monthly Mortgage Payment @ 30% of Median Income (HUD standard):

$$\begin{aligned} &= \$52,800 * 30\% \\ &= \$15,840 \text{ per year} \\ &= [\$15,840/12] = \$1,320 \text{ per month} \end{aligned}$$

Loan Eligibility based on \$52,800 annual income = \$210,000

Assumes: Good credit profile, New Purchase loan, 5% interest, 100% financing, 30yr Term, 1.25% property tax, 0.5% PMI

<http://www.mortgagecalculator.org>

If you adjust for Guam’s lower property tax, and you reduce the financing to 80% of cost combined with a 10% or 20% down payment contribution that can be required from conventional financing, a borrower who can afford \$1320 per month, could fund a higher priced house that costs between \$237, 500 and \$265,000.

Bill 93-32 increases the income threshold to be exempted from the SDC to 150% of the HUD median household income, or \$79,200. In this case, potential borrowers could afford to spend \$1980 per month on a thirty year mortgage and could borrow up to \$370,000.

Bill 93-32 Income threshold For SDC Exemption:

(Bill 93-32, Section 1(a), page 1)

$$\begin{aligned} &= (\text{Median Income}) * (150\%) \\ &= (\$52,800) * (150\%) \\ &= \$79,200 \end{aligned}$$

Affordable Monthly Mortgage Payment @ 30% of Bill 93-32 Income threshold:

$$= \$79,200 \times 30\%$$
$$= \$23,760 \text{ per year}$$
$$= [\$23,760/12] = \$1,980 \text{ per month}$$

Loan Eligibility under Bill 93-32 Threshold:

Using Mortgage Calculator

[http://www.bankrate.com/calculators/mortgages/mortgage-calculator.aspx?MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=](http://www.bankrate.com/calculators/mortgages/mortgage-calculator.aspx?MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=&MSA=)

Assumes: 5% interest, 100% financing, 30yr Term,

Loan eligibility based on an \$79,200 annual income = \$370,000

If you adjust for Guam's lower property tax, and assume a 10% or 20% down payment, a borrower who can afford \$1980 per month, could fund a house that costs between \$370,000 and \$445,000.

Bill 93-32 proposes to provide free infrastructure for homeowners that can afford anywhere from \$210,000 to \$445,000 for their houses.

Is \$210,000 affordable housing? Is 445,000 affordable housing? With the median household income only \$52,000 per year, are we really helping families in this income level who could never afford these higher housing costs? If median house hold income is only \$52,000, how do we help the lower earning half of our households who cannot afford \$200,000 houses but who might better afford houses that cost much less than \$200,000. Aren't these the households we really must try to help?

Bill 93 would allow “users” who can afford to borrow between \$210,000 and \$445,000 to not have to pay any of the \$5600 in SDC even though they can borrow hundreds of thousands of dollars for their house. The SDC, if factored into a thirty year mortgage, amounts to fifty one cents per day or about \$16 per month. Bill 92 results in a situation that even though someone could afford between \$1300 and \$1900 for a monthly mortgage, they can’t afford to pay \$16 per month in for SDC.

If you can't afford fifty one cents per day, how can you afford your mortgage?

More concerning is that Bill 92 will require 41,000 existing ratepayers to pick up 99.9% of the estimated \$19 million in costs for new infrastructure for 3,000 new homes, including the impact of new homeowners that can afford to build houses that cost from \$210,000 to \$445,000. This bill essentially shifts 99.9% of the entire burden for new infrastructure to serve new houses on existing ratepayers. Wouldn't we all like someone else to pay 99.9% of our bills?

Bill 92 does not balance the interests between existing ratepayers and future ratepayers because it shifts 99.9% of the burden onto existing ratepayers.

Bill 112-32

Senators Ada and Respcio's Bill 112 proposes to focus on "affordable housing" by suggesting a lower "graduated" SDC be paid for houses that truly target what lower income households can afford. Instead of focusing on income, the bill focuses on housing costs.

For houses costing less than \$180,000, new homeowners will only have to pay a maximum of 3% of their home costs as SDC. So, instead of paying \$5,600, someone building a \$80,000 house will only pay \$2,400 in SDC. A \$100,000 house will only require a \$3,000 SDC. Someone building a \$125,000 house will only pay \$3,750 or \$4500 for a house costing \$150,000. If only a water SDC applies, these new homeowners would only pay 1.2% of total costs.

The Bill still recognizes that every new structure has an impact and some contribution should still be required, but it targets assistance to truly lower cost housing for lower income families.

The Bill also changes the timing for payment of the SDC to accommodate concerns, particularly from developers and contractors, that the requirement to pay the SDC before construction starts makes paying the SDC more difficult. If Bill 112 is enacted, the SDC won't have to be paid until the new home is ready for occupancy. By delaying the payment until occupancy is ready, developers don't pay the SDC until they have an actual customer. Individual home builders can pay the costs out of their take-out financing or not until they are ready to move in. This change would benefit all new home builders without adversely impacting exiting ratepayers.

If there has to be any change to the SDC, Bill112-32 better balances the interests between promoting more homeownership while requiring a contribution that benefits existing ratepayers. This bill also better targets those families who earn the median household income or less. As the analysis shows, those who earn more than the median household income can afford much higher cost housing and are in no need for a subsidy from existing ratepayers.

If we are to truly promote "affordable housing", we need to promote housing developments that cost less than \$180,000, not more. Half of our households today CANNOT afford houses that cost more than \$180,000. They are the most in need. And because existing ratepayers pick

up any change in the SDC, we need to focus our help only on the most needy. But in helping those most in need, Bill 112 still requires a contribution to reduce the burden on exiting ratepayers.

Existing ratepayers cannot afford to pick up the tab on all new housing for everyone.

Final Comments:

In our culture, when we share in the celebration of a fiesta or family gathering, we all contribute to the table. In our culture, we all try to share the burden and the bounty. We all bring something to the fiesta table. Bill 92 proposes that new guests can come to the community fiesta table, but they don't have to bring anything and all the food and drink our new friends will need should be provided by the existing hosts.

Bill 112 says everyone must contribute. And if you can't afford as much as others, then you can bring a little less. But contribute something to the common fiesta table.

Opponents of the SDC that support Bill 92 will tell you that the SDC has killed housing development even though 700 new customers have paid \$4.27 million since 2010 that doesn't have to be paid by existing ratepayers.

Some developers say the SDC is killing their profits (see Mar Variety article). Yet, last year, a successful affordable housing developer built and sold 44 houses for \$180,000 last year and paid the entire SDC without any problems. Good developers can make housing happen and hundreds of individual developers have successfully built their new structures and paid the entire SDC. This isn't an issue of protecting developer profits. Developers are businesses. No one guarantees business profits. This debate is about protecting the public interest, not the narrow interests of some developers.

The real estate professionals and lenders will tell you that the single biggest reason for the lack of new housing relate to CREDIT issues facing potential borrowers. While interest rates are at an all-time low, people still struggle to borrow because of challenging credit profiles and tighter credit requirements by banks, borne from the financial collapse of 2008-09.

The current SDC law was passed with the vote of the current and a two former Governors, a former Lt. Governor and the current and three former Speakers. They all supported the concept that growth should pay for growth.

Senators Ada, Respcio and the CCU/GWA worked together to develop Bill 112 in response to the valid concerns of making affordable housing more affordable. Bill 112 strikes a balance between promoting affordable housing while still recognizing that everyone that builds a new structure has an obligation to current ratepayers to contribute something to their cost of system expansion.

Developer: SDC squeezes profit margin

By Mar-Vic Cagurangan
For Variety

THE system development charge, or SDC, levied by the Guam Waterworks Authority creates another layer of regulatory cost that squeezes the profit margins for housing projects, according to real estate developer Richard Untalan.

Untalan, president of UMC Holdings Inc. and Tri Inc., said GWA's development fee significantly increases the cost of construction and makes it harder for a developer to recover the cost of investment.

In the case of residential development, Untalan said, the added cost cannot be easily passed on to a buyer without raising the sale price of the unit.

"Unlike purchasing concrete, rebar or paint to construct a home, we cannot negotiate on the price of the SDC. It's a fixed cost, which means we have to work harder on lowering the cost of the other items in order to keep the price of a home within the range of affordability, and many times we cannot because of the market and because of the additional cost

of importing goods to Guam," he said.

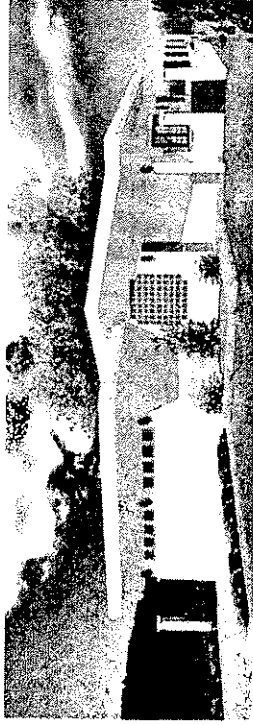
Pricing distortion

Untalan said the pricing mechanism gets distorted whenever the government imposes a fixed cost on the market.

"If the government is to intervene in the pricing mechanism of what is affordable as determined by the market, then it should impose rules that will lower the cost, not increase it, if the goal is to make homes affordable to a certain economic class," he added.

The administration is targeting 3,000 affordable housing units on Guam by 2017, and Guam Housing Corp. President Martin Benavente earlier claimed the SDC is a barrier to this goal.

Untalan echoed Benavente's sentiment. "If the increase goes high enough, a developer will not have the incentive to develop a project because the sales price of the home is too high and thus not saleable, or because the profit margin has been squeezed to the point where it is not profitable to build and sell homes at a price that is saleable," he said.



▲ The design model of a Paradise Meadows home. Contributed photo

◀ Tri Inc. President Richard Untalan says the system development charge adds a regulatory cost to housing projects. Mar-Vic Cagurangan / For Variety



Exemption

The concerns raised by housing developers have prompted Sen. Tina Muña-Barnes to introduce Bill 93-32, which proposes to exempt low-cost housing builders from paying the development fee, which is imposed on developers connecting into the GWA water or wastewater system for the first time.

Untalan supports the bill, saying the current fee puts the burden only on new users.

reduced cost.

"And quite frankly, if the government had been setting aside a capital improvement fund under its monthly charge to exist for users for the past 40 years or so, it would never have to establish the SDC, which is really a way for the government to catch up for failing to impose a capital improvement fund all these years," Untalan said.

Tri Inc. recently broke ground on Paradise Meadows, a 101-unit housing subdivision in Yigo which targets the low- and middle-income market.

Untalan said his company is eyeing to build more projects and to be able to compete in the governor's program to build affordable homes on Chamorro Trust Land next to Paradise Meadows.

"I think that if you let the private sector develop an affordable housing project from start to finish with pre-set parameters on what the sales price will be there will be a better chance of success," he said.

"This includes the financing of the project and the sale of the homes to qualified buyers. Under the rural housing program of the [U.S. Department of Agriculture] a first-time buyer can secure 100 percent financing to purchase a home," Untalan added.

"If there has to be an SDC, I think it is far more equitable if the total projected cost of the maintenance and upgrade was spread among all users, both existing and new, thus spreading the pain to be absorbed by a larger pool," Untalan said.

He pointed out that an existing user puts pressure on the existing system as well and benefits from new users.

Spread out the cost

He suggested that instead of imposing the cost solely on new developers, GWA should increase the proportionate share for new users among the larger pool. While this arrangement will spread the charge wider, Untalan said it will at least ease the burden on a new user with a



Quality Business Systems wins

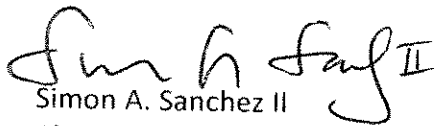
We agree and support the public good to help increase the availability of low cost affordable housing. The CCU/GWA, however, believe that completely eliminating the SDC, as some propose, is grossly unfair to existing ratepayers. Water and wastewater infrastructure is not free, yet some folks want it to be free for them but paid for by others.

We are all in this together. Thus, we all must share in the sacrifice to insure that we always have enough water and wastewater capacity for existing and future customers. Existing customers have built the system that new customers want to connect to. It wasn't free. New customers have to help pay for the new infrastructure needed to serve them. It's not free. One bill says existing ratepayers should pick up 99% of the new burden. The other says everyone contributes according to their means.

As the Legislature and Governor evaluate these two proposals, we hope they will find that Bill 112-32 better balances the needs of new homeowners and existing ratepayers.

Thank you for allowing me to testify on these matters.

Senseramente'

A handwritten signature in black ink, appearing to read "Simon A. Sanchez II". The signature is stylized with a large "S" and "A" and a Roman numeral "II" at the end.

Simon A. Sanchez II

Chairman

Consolidated Commission on Utilities



GHURA

Guam Housing and Urban Renewal Authority
Aturidat Ginima' Yan Rinueban Siudad Guahan
117 Bien Venida Avenue, Sinajana, GU 96910
Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701



TESTIMONY

Bill 93-32(COR)

AN ACT TO AMEND §12015.5, CHAPTER 12, TITLE 12, GUAM CODE ANNOTATED, RELATIVE TO THE WATER AND SEWER SYSTEM DEVELOPMENT CHARGE.

Bill 112-32(COR)

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

June 12, 2013

Senator Tina Rose Muna-Barnes

Chairperson, Cmte. on Municipal Affairs, Tourism, Housing & Hagåtña Restoration and Redevelopment Authority
Suite 101
155 Hesler St.
Hagåtña, Guam 96910

Senator Thomas C. Ada

Chairperson, Committee on Public Safety, Infrastructure & Maritime Transportation
Ste. 207 Ada Plaza Ctr.
173 Aspinall Ave.
Hagåtña, Guam 96910

Buenas yan Hafa Adai Senator Barnes and Senator Ada,

The Guam Housing and Urban Renewal Authority (GHURA) is pleased to offer these sentiments regarding two bills, Bills 93-32(COR) and 112-32(COR), both intending to address the impacts of the System Development Charge (SDC) on individuals and developers of affordable housing.

We offer great praise for the efforts of both Committees and the measures proposed to remove or mitigate the impacts of the SDC on Guam's affordable home buyer. Each Bill offers its unique approach to the issue. For GHURA's part, we believe there is merit to both approaches.

A recently commissioned market study provided insight into the impacts of the SDCs on residential construction. Over the past three years, Guam has seen construction permits fall from 323 permits issued in 2010, to 205 permits in 2012, a decline of 36.5%. The decrease in supply has been attributed in part to both a continuing weak market but also to the addition of the SDC since 2010. The decrease in overall supply makes the remaining stock less affordable to even the most ready buyer, let alone the impact to the affordable buyer.

If there was a lesson to be learned during the recent Guam Affordable Housing Symposium, it might be that developing affordable housing has unique challenges, not the least of which is the make-or-break question of 'affordability'. Building affordable housing in Guam is expensive if you are building one unit or many.

Housing development is as much an economic issue as it is a matter of the family who successfully builds or buys that first home. The island's construction history is not one of large track affordable housing. Rather, it is the legacy of the



single individual looking to build that first (and hopefully last) home. It is a legacy of small business, the builder/contractor employing local skilled and unskilled labor alongside the H2 worker.

We support every effort to preserve and increase the housing stock, to meet our mission of providing safe, decent, and sanitary dwellings, and improving the redevelopment and revitalization of neighborhoods.

We offer our time and effort to both Committees as you refine the legislations and move harmoniously forward. At the end of this session, we will be forwarding technical notes to your offices which we hope will assist in your processes especially to discuss a definition of affordability that will help stand the test of time.

Respectfully submitted for your consideration,

A handwritten signature in black ink, appearing to read "Michael J. Duenas".

MICHAEL J. DUENAS
Executive Director
GHURA



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
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Member
MINORITY LEADER

Senator
Aline Yamashita
Member

May 20, 2013

Memorandum

To: Rennae Meno
Clerk of the Legislature

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Subject: Fiscal Notes

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below.
Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

Bill Nos.: 84-32(COR), 104-32(COR), 111-32(COR),
112-32(COR), 113-32(COR), 114-32(COR), 115-32(COR)

WAIVER:

Bill No. 102-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2013 MAY 20 PM 3:36

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

JOHN A. RIOS
DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR

MAY 16 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 84-32(COR), 104-32(COR), 111-32(COR), 112-32(COR), 113-32(COR), 114-32(COR), 115-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 102-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

Bureau of Budget & Management Research
Fiscal Note of Bill No. 112-32 (COR)

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).

Department/Agency Appropriation Information

Dept./Agency Affected: Guam Waterworks Authority (GWA)	Dept./Agency Head: John Benavente, General Manager, Consolidated Utility Services
Department's General Fund (GF) appropriation(s) to date:	-
Department's Other Fund (Specify) appropriation(s) to date:	-
Total Department/Agency Appropriation(s) to date:	\$0

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2013 Adopted Revenues	\$0	\$0	\$0
FY 2013 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? / / Yes /X/ No
 If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No
 If no, what is the additional amount required? \$ /X/ N/A
3. Does the Bill establish a new program/agency? / / Yes /X/ No
 If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No
 Is there a federal mandate to establish the program/agency? /X/ N/A / / Yes / / No
4. Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /X/ No
 / / Requested agency comments not received as of the due date /X/ Other: Time constraints

Analyst: Arthur R. Mariano Date: 5/14/13 Director: John A. Rios, Director Date: MAY 16 2013

Footnotes:

See attachment to fiscal note.

Bureau of Budget & Management Research
Attachment to Fiscal Note No. 112-32 (COR)

Comments:

Sec. 2 of Bill 112-32 (COR) amends §12015.5 of Chapter 12 of Title 12 GCA by adding §§ (I) and (J) to create a new "Affordable Housing System Development Charge" (AHSDC) and to allow for such charges to be paid prior to occupancy as opposed to prior to permitting. Based on provisions contained therein, qualified persons building primary residences or constructing affordable homes valued at \$180,000 or less would be charged 3% of the value of the home and land *or* the sale price of the home versus a flat rate of \$5,600 per the current System Development Charge Schedule. For illustrative purposes, using 2,000 homes as a basis (1,000 valued at \$150K and 1,000 valued at \$180K), the net impact would be \$1.3M reduction in SDC collections (\$9.9M versus \$11.2M). This, along with proposed plans to defer payment of charges to prior to occupancy effectively reduces the availability of funds to GWA and may impact planned expansion of the island's water and wastewater systems. However, the reduction in SDC fees would be offset by the addition of new rate payers and revenue for the GWA.



COMMITTEE ON RULES

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Member
MINORITY LEADER

Senator
Aline Yamashita
Member

May 13, 2013

MEMORANDUM

To: **Rennae Meno**
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Referral of Bill No. 112-32(COR)**

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 112-32(COR)**.

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Should you have any questions, please feel free to contact our office at 472-7679.

Si Yu'os Ma'åse!

Attachment

I Mina'Trentai Dos Na Liheslaturan Guahan

Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
112-32 (COR)	T. C. Ada, R.J. Respicio	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).	5/10/13 4:49 P.M.	5/10/13	Committee on Public Safety, Infrastructure, & Maritime Transformation			



Office of
Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

1st Public Hearing Notice - June 12, 6pm

Cyrus Luhr <cyrus@senatorada.org>

Tue, Jun 4, 2013 at 2:49 AM

To: phnotice@guamlegislature.org, media@senatorada.org

Hafa Adai,

Please see the attached memo regarding a Public Hearing being conducted by the Committee on Public Safety, Infrastructure & Maritime Transportation. This hearing will take place on Wed, June 12, at 6:00 pm, in the Public Hearing room of *I Liheslatura*.

On the Agenda are the following two items:

Bill 93-32 – T.R. Muña Barnes

Waiving the GWA System Development Charge for residential customers making less than 150% of the median income for Guam.

Bill 112-32 – T.C. Ada, R.J. Respicio

Authorizing an Affordable Housing System Development Charge.

Please let me know if you have any questions or concerns.

Thank you,
Cyrus

Cyrus Luhr
Senior Policy Analyst
Office of Senator Thomas C. Ada
I Mina'trentai Dos na Liheslaturan Guåhan - 32nd Guam Legislature
671-473-3301



PH - 1st notice - June 12, 6pm.pdf

510K



Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation
I Mina'trentai Dos Na Libeslaturan Guåhan • 32nd Guam Legislature

May 29, 2013

MEMORANDUM

To: All Senators, Media and Stakeholders
Fr: Senator Thomas C. Ada
Subject: **Public Hearing Notice: June 12, 2013 at 6:00 pm**

Please be advised that the Committee on Public Safety, Infrastructure and Maritime Transportation is holding a public hearing on **Wed, June 12, at 6:00 pm**. This meeting will take place in the Public Hearing Room of *I Liheslatura*, and broadcast on MCV channel 13 and GTA channel 21. The agenda is as follows:

6:00 pm

Bill 93-32 – T.R. Muña Barnes

Waiving the GWA System Development Charge for residential customers making less than 150% of the median income for Guam.

Bill 112-32 – T.C. Ada, R.J. Respicio

Authorizing an Affordable Housing System Development Charge.

Testimonies should be addressed to Senator Thomas C. Ada, and will be accepted via hand delivery to our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until Wednesday, June 19, 2013 at 5:00 pm. Individuals requiring special accommodations, auxiliary aids or services should submit their request to Cyrus Luhr at 473-3301. Please feel free to contact my office at 473-3301 should you have any questions.

Si Yu'os Ma'ase.

Thomas C. Ada

Media media@senatorada.org

Email addresses of all media contacts (for press releases)

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As of May 14, 2013

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rob@judiwonpat.com
rolly@kktb.com
roryforguam@gmail.com
ryanjames@senatormorrison.com
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troy.torres@guam.gov
tterlaje@guam.net
val@tonyada.com
vincent@tinamunabarnes.com
wil@judiwonpat.com
will@senatorada.org
xiosormd@gmail.com
xiosormd@yahoo.com
ylee2@guam.gannett.com
zita@mvguam.com



my office of
Senator Tom Ada

Cyrus Luhr <cyrus@senatorada.org>

2nd Public Hearing Notice - June 12, 6pm

Cyrus Luhr <cyrus@senatorada.org>

Mon, Jun 10, 2013 at 10:40 AM

To: phnotice@guamlegislature.org, media@senatorada.org

Hafa Adai,

Please see the attached memo regarding a Public Hearing being conducted by the Committee on Public Safety, Infrastructure & Maritime Transportation. This hearing will take place on Wed, June 12, at 6:00 pm, in the Public Hearing room of / *Liheslatura*.

On the Agenda are the following two items:

Bill 93-32 – T.R. Muña Barnes

Waiving the GWA System Development Charge for residential customers making less than 150% of the median income for Guam.

Bill 112-32 – T.C. Ada, R.J. Respicio

Authorizing an Affordable Housing System Development Charge.

Please let me know if you have any questions or concerns.

Thank you,
Cyrus

Cyrus Luhr
Senior Policy Analyst
Office of Senator Thomas C. Ada
I Mina'trentai Dos na Liheslaturan Guåhan - 32nd Guam Legislature
671-473-3301



PH - 2nd notice - June 12, 6pm.pdf
510K



Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation

I Mina'trentai Dos Na Libeslaturan Guåhan • 32nd Guam Legislature

May 29, 2013

MEMORANDUM

To: All Senators, Media and Stakeholders

Fr: Senator Thomas C. Ada

Subject: **Public Hearing Notice: June 12, 2013 at 6:00 pm**

Please be advised that the Committee on Public Safety, Infrastructure and Maritime Transportation is holding a public hearing on **Wed, June 12, at 6:00 pm**. This meeting will take place in the Public Hearing Room of *I Liheslatura*, and broadcast on MCV channel 13 and GTA channel 21. The agenda is as follows:

6:00 pm

Bill 93-32 – T.R. Muña Barnes

Waiving the GWA System Development Charge for residential customers making less than 150% of the median income for Guam.

Bill 112-32 – T.C. Ada, R.J. Respicio

Authorizing an Affordable Housing System Development Charge.

Testimonies should be addressed to Senator Thomas C. Ada, and will be accepted via hand delivery to our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until Wednesday, June 19, 2013 at 5:00 pm. Individuals requiring special accommodations, auxiliary aids or services should submit their request to Cyrus Luhr at 473-3301. Please feel free to contact my office at 473-3301 should you have any questions.

Si Yu'os Ma'ase.

Thomas C. Ada



Senator Thomas C. Ada

Chairman - Committee on Public Safety, Infrastructure & Maritime Transportation
I Mina'trentai Dos Na Libeslaturan Guåhan • 32nd Guam Legislature

AGENDA

PUBLIC HEARING

Wednesday, June 12, 2013

Public Hearing Room, *I Liheslaturan Guåhan*

The agenda is as follows:

6:00 pm

Bill 93-32 – T.R. Muña Barnes

Waiving the GWA System Development Charge for residential customers making less than 150% of the median income for Guam.

Bill 112-32 – T.C. Ada, R.J. Respicio

Authorizing an Affordable Housing System Development Charge.

Testimonies should be addressed to Senator Thomas C. Ada, and will be accepted via hand delivery to our mailbox at the Main Legislature Building at 155 Hesler Place, Hagåtña, Guam 96932, via email to office@senatorada.org, or via facsimile to (671) 473-3303 until Wednesday, June 26, 2013 at 5:00 pm. Individuals requiring special accommodations, auxiliary aids or services should submit their request to Cyrus Luhr at 473-3301. Please feel free to contact my office at 473-3301 should you have any questions.

Cable failure caused outage

By Louella Losinlo
louella@mvguam.com
Variety News Staff

THE massive islandwide power outage that occurred last Thursday night was caused by an electrical cable failure at the Dededo Combustion Turbine (CT) substation, the Guam Power Authority reported over the weekend.

According to GPA, the cable ignited and caused damage to other line cables, switches and line hardware equipment which precipitated a blackout.

"This event affected the island's power grid causing instability which led to the temporary shutdown of three base load units: MEC (Marianas Energy Company) Units No. 8 and 9 and Cabras No. 4," Melinda Camacho, GPA assistant general manager of operations, said in a statement.

"Other base load units, Cabras Units 1 and 2 remained online to stabilize the power grid. However, these units experienced problems which led to the subsequent blackout. Unfortunately this isolated incident led to a series of unusual events causing our customers to lose power which we quickly rectified," Camacho added.

GPA crews isolated the problem and coordinated restoration efforts utilizing backup generators, and additional line personnel were called to the field to assist. As a result, power restoration began at 11:30 p.m. and continued on until power was fully restored islandwide at

4:40 a.m. Friday morning.

"Our focus at this point is to ensure similar line problems do not happen again." The Dededo CT substation is back in service and the damaged system has been isolated so it can be repaired," Camacho said.

An explosion and subsequent fire at the GPA Dededo substation caused the islandwide power outage starting just a little after 10 p.m. Thursday night.

The damage at the Dededo substation tripped off MEC 8 and 9 as well as Cabras 4 generators, causing the islandwide power outage. A little while after that, Cabras 1 and 2 also tripped offline but the TEMES and Macheche generating units took up some of the slack.

The official time of the blackout was 10:50 p.m.

The outage and reported fire in the Dededo substation caused the Guam Police Department to reroute motorists passing through the substation.

Downed line

Meanwhile, GPA dispatchers also reported a downed line in front of the GovGuam Retirement Building in Maite last Friday.

Customers affected by the downed line include residents and businesses near the GovGuam Retirement Building, Coast 360 location and surrounding apartments and condominiums.

GPA line crews quickly responded and power was restored soon after to the affected customers.



DFS Guam has filed an appeal with the Office of Public Accountability and a lawsuit with the Superior Court to preserve its retail concession at the Guam airport. Variety News photo.

OPA stays DFS contract appeal

By Mar-Vic Capurengan
marvic@mvguam.com
Variety News Staff

THE Office of Public Accountability held off action on DFS Guam's appeal challenging the Guam International Airport Authority's contract with Lotte Duty Free, pending judicial proceedings.

In a decision issued Friday,

Public Auditor Doris Flores Brooks noted that under the procurement regulations, the OPA is barred from taking any action on a protest involving a case filed in court.

DFS has filed an appeal with the OPA and a lawsuit with the Superior Court, seeking the nullification of the airport board's decision to award the retail

concession to Lotte.

DFS alleged that some GIAA board members received gifts from Lotte during their tour of the company's retail shop in Seoul.

GIAA signed a five-year concession agreement with Lotte on March 20, authorizing the Korean company to operate a duty free retail concession in the main terminal of the airport.

SSHS gets \$5,000 funding for library

By Louella Losinlo
louella@mvguam.com
Variety News Staff

THE Guam Department of Education has announced that Simon A. Sanchez High School is one of the recipients of the Laura Bush Foundation for America's Libraries.

The award will provide the school with \$5,000 for magazine and library book requests.

The SSHS library is one of 212 school libraries that are being awarded \$1.06 million in grants for 2013. The schools receive grants of \$5,000 to expand, update and diversify their library book collections.

The grant application process is administered by The Community Foundation for the National Capital Region with guidance from the Laura Bush Founda-

tion's Advisory Committee. The grants are funded through generous donations to the endowment from individuals, corporations and foundations.

According to a briefing paper provided by the foundation, the Laura Bush Foundation for America's Libraries was founded in 2002 as a fund of The Community Foundation for the National Capital Region. Since its inception, the Laura Bush Foundation has awarded more than \$10.5 million to schools in all 50 states, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, the Marshall Islands and the Northern Mariana Islands.

In addition to these yearly grants, the Foundation has also awarded more than \$6.3 million to school libraries in the Gulf Coast region to rebuild their library book collections that were lost or destroyed by hurricanes or storms.

The mission of the Laura Bush Foundation for America's Libraries is to support the education of our nation's children by providing funds to update, extend and diversify the book and print collections of America's school libraries. Further information is available at www.laurabushfoundation.org.



Committee on Public Safety, Infrastructure
& Maritime Transportation

Public Hearing Notice

Wed., June 12, 2013

6:00 pm

Public Hearing Room, Guam Legislature

Bill 93-32 - Waives GWA System Development Charge (SDC) for Residential customers making less than 150% of Guam median income. (Intro. by T.R. Mada Barnes)

Bill 112-32 - Authorizing an Affordable Housing System Development Charge. (Intro. by T.C. Ada, R.) Respicio)

Individuals requesting special accommodations, auxiliary aids, or services should submit their request to the Office of Senator Tom Ada, Committee Chairman, at 475-3301. Copies of agenda items may be found on the official Guam Legislature website (www.guamlegislature.com).

Paid for with public funds by the Committee

PUBLIC NOTICE

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

YI, SUN WOL
dba: **Happy Lounge**

has applied for a Class: 4 General On Sale Alcoholic Beverage License said premises being marked as Lot: 5162-3-2-3-R3 Unit 27 GKTC, Harmon Industrial Park, Harmon

PUBLICATION NOTICE

In accordance with the provisions of Guam Code Annotated, Title XI, Chapter III, Section 3315, notice is hereby given that:

Park, Eun Hye
dba: **Join Mart**

has applied for a Class: 5 Off Sale Beer Alcoholic Beverage License said premises being marked as Lot: 19-2 New T 227 RR Cruz Sub-Division RT-12, Agat

Marianas Variety-Guam Edition is circulated by home and office delivery, consignments, and vending machines throughout Guam, as mail delivery to the Federated States of Micronesia, the Marshall Islands, South Pacific, Hawaii, Japan and the continental U.S. Daily coverage can also be read from our website www.mvguam.com.

Marianas Variety-Guam Edition (ISSN 1541-7093) is published daily except Saturday and Sunday. Annual subscription rates are \$150 on-island, \$375 off-island, and \$1,095 foreign. Published by Youngs Art Studio, Inc., Ikon Industrial Complex, 715 Rojas Street Suite 204, Tamuning, Guam 96913. POSTMASTER: Send address changes to Marianas Variety-Guam, P.O. Box 8338, Tamuning, Guam 96931.

May 2013 Champions

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cgaerlan@nissanguam.com

Lawrence "Chris" Tydingco

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Feel it wriggle down your throat



Traditional medicine: A member of the Goud family administers "fish medicine" to a young asthma patient in Hyderabad, India, Saturday. Started by the Bathini Goud family, the therapy is a secret formula of herbs, handed down by generations only to family members. The herbs are inserted in the mouth of a live sardine, or murrel fish, and slipped into a patient's throat. The Associated Press



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EB, INDIAN STAR, B.Y.O.J. & LUCKY 7 INCLUDED IN THE FORTUNE BUY-INS.



Committee on Public Safety, Infrastructure & Maritime Transportation

Public Hearing Notice

Wed., June 12, 2013

6:00 pm

Public Hearing Room, Guam Legislature

Bill 93-32 - Waives GWA System Development Charge (SDC) for Residential customers making less than 150% of Guam median income. (Intro. by T.R. Maña Barnes)

Bill 112-32 - Authorizing an Affordable Housing System Development Charge. (Intro. by T.C. Ada, R.J. Respcio)

Individuals requiring special accommodations, auxiliary aids, or services should submit their request to the Office of Senator Tom Ada, Committee Chairman, at 473-3301. Copies of agenda items may be found on the official Guam Legislature website (www.guamlegislature.com).

Paid for with public funds by the Committee



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com

E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

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CHAIRPERSON
MAJORITY LEADER

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VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

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Senator
Frank Blas Aguon, Jr.
Member

Senator
Michael F.Q. San Nicolas
Member

Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

May 20, 2013

Memorandum

To: **Rennae Meno**
Clerk of the Legislature

From: **Senator Rory J. Respicio**
Majority Leader & Rules Chair

Subject: **Fiscal Notes**

Hafa Adai!

Attached please find the fiscal notes for the bill numbers listed below.
Please note that the fiscal notes, or waivers, are issued on the bills as introduced.

FISCAL NOTES:

**Bill Nos.: 84-32(COR), 104-32(COR), 111-32(COR),
112-32(COR), 113-32(COR), 114-32(COR), 115-32(COR)**

WAIVER:

Bill No. 102-32(COR)

Please forward the same to MIS for posting on our website. Please contact our office should you have any questions regarding this matter.

Si Yu'os ma'åse'!

2013 MAY 20 PM 3:36 S

**BUREAU OF BUDGET & MANAGEMENT RESEARCH**

OFFICE OF THE GOVERNOR
Post Office Box 2950, Hagåtña Guam 96932

EDDIE BAZA CALVO
GOVERNOR

JOHN A. RIOS
DIRECTOR

RAY TENORIO
LIEUTENANT GOVERNOR

MAY 16 2013

Senator Rory J. Respicio
Chairperson, Committee on Rules
I Mina'trentai Unu na Liheslaturan Guåhan
The 31st Guam Legislature
155 Hesler Place
Hagåtña, Guam 96932

Hafa Adai Senator Respicio:

Transmitted herewith is Fiscal Note on the following Bill Nos.: 84-32(COR), 104-32(COR), 111-32(COR), 112-32(COR), 113-32(COR), 114-32(COR), 115-32(COR) and Fiscal Note Waiver on the following Bill Nos.: 102-32(COR).

If you have any question(s), please do not hesitate to call the office at 475-9412/9106.

A handwritten signature in black ink, appearing to read "John A. Rios".

JOHN A. RIOS
Director

Enclosures

cc: Senator Vicente (ben) Pangelinan

Bureau of Budget & Management Research
Fiscal Note of Bill No. 112-32 (COR)

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).

Department/Agency Appropriation Information

Dept./Agency Affected: Guam Waterworks Authority (GWA)	Dept./Agency Head: John Benavente, General Manager, Consolidated Utility Services
Department's General Fund (GF) appropriation(s) to date:	-
Department's Other Fund (Specify) appropriation(s) to date:	-
Total Department/Agency Appropriation(s) to date:	\$0

Fund Source Information of Proposed Appropriation

	General Fund:	(Specify Special Fund):	Total:
FY 2012 Unreserved Fund Balance ¹		\$0	\$0
FY 2013 Adopted Revenues	\$0	\$0	\$0
FY 2013 Appro. (P.L. 31-233)	\$0	\$0	\$0
Sub-total:	\$0	\$0	\$0
Less appropriation in Bill	\$0	\$0	\$0
Total:	\$0	\$0	\$0

Estimated Fiscal Impact of Bill

	One Full Fiscal Year	For Remainder of FY 2013 (if applicable)	FY 2014	FY 2015	FY 2016	FY 2017
General Fund	\$0	\$0	\$0	\$0	\$0	\$0
(Specify Special Fund)	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$0	\$0	\$0	\$0	\$0	\$0

1. Does the bill contain "revenue generating" provisions? / / Yes /X/ No
 If Yes, see attachment
2. Is amount appropriated adequate to fund the intent of the appropriation? /X/ N/A / / Yes / / No
 If no, what is the additional amount required? \$ _____ /X/ N/A
3. Does the Bill establish a new program/agency? / / Yes /X/ No
 If yes, will the program duplicate existing programs/agencies? /X/ N/A / / Yes / / No
 Is there a federal mandate to establish the program/agency? /X/ N/A / / Yes / / No
4. Will the enactment of this Bill require new physical facilities? / / Yes /X/ No
5. Was Fiscal Note coordinated with the affected dept/agency? If no, indicate reason: / / Yes /X/ No
 / / Requested agency comments not received as of the due date /X/ Other: Time constraints

Analyst: Arthur R. Mariano Date: 5/14/13 Director: John A. Rios Date: MAY 16 2013

Footnotes:

See attachment to fiscal note.

Bureau of Budget & Management Research
Attachment to Fiscal Note No. 112-32 (COR)

Comments:

Sec. 2 of Bill 112-32 (COR) amends §12015.5 of Chapter 12 of Title 12 GCA by adding §§ (I) and (J) to create a new "Affordable Housing System Development Charge" (AHSDC) and to allow for such charges to be paid prior to occupancy as opposed to prior to permitting. Based on provisions contained therein, qualified persons building primary residences or constructing affordable homes valued at \$180,000 or less would be charged 3% of the value of the home and land *or* the sale price of the home versus a flat rate of \$5,600 per the current System Development Charge Schedule. For illustrative purposes, using 2,000 homes as a basis (1,000 valued at \$150K and 1,000 valued at \$180K), the net impact would be \$1.3M reduction in SDC collections (\$9.9M versus \$11.2M). This, along with proposed plans to defer payment of charges to prior to occupancy effectively reduces the availability of funds to GWA and may impact planned expansion of the island's water and wastewater systems. However, the reduction in SDC fees would be offset by the addition of new rate payers and revenue for the GWA.



COMMITTEE ON RULES

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Senator
V. Anthony Ada
Member
MINORITY LEADER

Senator
Aline Yamashita
Member

May 13, 2013

VIA E-MAIL
john.rios@bbmr.guam.gov

John A. Rios
Director
Bureau of Budget & Management Research
P.O. Box 2950
Hagåtña, Guam 96910

RE: Request for Fiscal Note-- Bill Nos. 111- 116-32 (COR)

Hafa Adai Mr. Rios:

Transmitted herewith is a listing of *I Mina'trentai Dos na Liheslaturan Guåhan's* most recently introduced bills. Pursuant to 2 GCA §9103, I respectfully request the preparation of fiscal notes for the referenced bills.

Si Yu'os ma'åse' for your attention to this matter.

Very Truly Yours,

Senator Rory J. Respicio
Chairperson, Committee on Rules

Attachments (1)

Cc: Clerk of the Legislature

2013 MAY 14 PM 12:06

Bill Nos.	Sponsor	Title
111-32 (COR)	D.G. Rodriguez, Jr., Michael T. Limtiaco	AN ACT TO AUTHORIZE GOVERNMENT EMPLOYEES TO UTILIZE ANNUAL LEAVE TO PAY DEBTS TO GUAM MEMORIAL HOSPITAL AUTHORITY, BY ADDING A NEW §4109.6 TO CHAPTER 4, TITLE 4, GUAM CODE ANNOTATED.
112-32 (COR)	T. C. Ada, R.J. Respicio	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).
113-32 (COR)	T.R. Muña Barnes, F.B. Aguon, Jr., B.J.F. Cruz, J.T. Won Pat, Ed.D., R.J. Respicio	AN ACT TO ADD A NEW SECTION 16 TO CHAPTER X OF PUBLIC LAW 31-233 (GENERAL APPROPRIATIONS ACT OF 2013) MAKING AN APPROPRIATION FROM THE TOURIST ATTRACTION FUND (TAF) TO DUK DUK GOOSE, INC. TO COVER PRODUCTION COSTS FOR A CULTURAL CHILDREN'S TELEVISION PROGRAM.
114-32 (COR)	T.R. Muña Barnes, B.J.F. Cruz, J.T. Won Pat, Ed.D., F.B. Aguon, Jr., R.J. Respicio	AN ACT TO ADD A NEW SECTION 16 TO CHAPTER X OF PUBLIC LAW 31-233 (GENERAL APPROPRIATIONS ACT OF 2013) MAKING AN APPROPRIATION FROM THE TOURIST ATTRACTION FUND (TAF) TO HURAO ACADEMY, INC. TO CONTINUE THEIR MISSION IN PROMOTING AND PERPETUATING THE CHAMORU LANGUAGE AND CULTURE.
115-32 (COR)	T.R. Muña Barnes, B.J.F. Cruz, J.T. Won Pat, Ed.D., F.B. Aguon, Jr., R.J. Respicio	AN ACT TO ADD A NEW SECTION 16 TO CHAPTER X OF PUBLIC LAW 31-233 (GENERAL APPROPRIATIONS ACT OF 2013) MAKING AN APPROPRIATION FROM THE TOURIST ATTRACTION FUND (TAF) TO INETNON GEFPÅ'GO CULTURAL ARTS PROGRAM, INC. FOR THE PURPOSES OF DEVELOPING A SOUTHERN VISITOR ATTRACTION VENUE AT THE INARAJAN GARDENHOUSE (IGH).
116-32 (COR)	Michael F.Q. San Nicolas	AN ACT TO AMEND §§ 65102 AND 65103 OF CHAPTER 65, TITLE 10, GUAM CODE ANNOTATED AND TO ADD A NEW § 65103.1 TO THE SAME CHAPTER; RELATIVE TO THE ESTABLISHMENT OF OPERATIONAL CONTINUITY PLANS FOR EACH AGENCY OF THE GOVERNMENT OF GUAM.



COMMITTEE ON RULES

I Mina'trentai Dos na Liheslaturan Guåhan • The 32nd Guam Legislature
155 Hesler Place, Hagåtña, Guam 96910 • www.guamlegislature.com
E-mail: roryforguam@gmail.com • Tel: (671)472-7679 • Fax: (671)472-3547

Senator
Rory J. Respicio
CHAIRPERSON
MAJORITY LEADER

May 13, 2013

Senator
Thomas C. Ada
VICE CHAIRPERSON
ASSISTANT MAJORITY LEADER

MEMORANDUM

Senator
Vicente (Ben) C. Pangelinan
Member

To: Rennae Meno
Clerk of the Legislature

Attorney Therese M. Terlaje
Legislative Legal Counsel

Speaker
Judith T.P. Won Pat, Ed.D.
Member

From: Senator Rory J. Respicio
Majority Leader & Rules Chair

Senator
Dennis G. Rodriguez, Jr.
Member

Subject: Referral of Bill No. 112-32(COR)

Vice-Speaker
Benjamin J.F. Cruz
Member

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 112-32(COR)**.

Legislative Secretary
Tina Rose Muña Barnes
Member

Please ensure that the subject bill is referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Senator
Frank Blas Aguon, Jr.
Member

Should you have any questions, please feel free to contact our office at 472-7679.

Senator
Michael F.Q. San Nicolas
Member

Si Yu'os Ma'åse!

Senator
V. Anthony Ada
Member
MINORITY LEADER

Attachment

Senator
Aline Yamashita
Member

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

Bill No. 112-32(COR)

Introduced by:

T.C. Ada
R.J. Respicio

2013 MAY 18 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.