

I Mina'Trentai Dos Na Liheslaturan Received
Bill Log Sheet

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES
416-32 (LS)	Dennis G. Rodriguez, Jr	AN ACT TO ADD A NEW ARTICLE 2 TO CHAPTER 58, 12 GCA, RELATIVE TO ENCOURAGING THE DEVELOPMENT OF 1,600 NEW HOTEL ROOMS THROUGH THE ISSUANCE OF SPECIAL QUALIFYING CERTIFICATES TO HOTEL DEVELOPERS; AND, PROVIDE FOR A QUALIFYING CERTIFICATE ABEYANCE PENDING DEVELOPMENT OF INDUSTRY SPECIFIC CRITERIA, BY ADDING A NEW § 58146.1 TO CHAPTER 58, 12 GCA.	10/21/14 3:39 p.m.,	10/21/14	Committee on Health & Human Services, Health Insurance Reform, Economic Development, and Senior Citizens			



COMMITTEE ON RULES

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October 22, 2014

MEMORANDUM

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

Attorney Therese M. Terlaje
Legislative Legal Counsel

From: **Senator Rory J. Respicio** 
Chairperson of the Committee on Rules

Subject: Referral of Bill No. 416-32(LS)

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill No. 416-32(LS)**.

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 GUÅHAN
2014 (SECOND) Regular Session

Bill No. 416 -32 (45))

Introduced by:

DENNIS G. RODRIGUEZ, JR. 

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

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

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

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

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

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

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

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

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

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

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

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

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

6 **§ 58204. Fees.**

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

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

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

- 16
 - Funding for the maintenance and upkeep of certain tourist attractions or to support

17 other tourism projects;

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

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

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

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

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

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

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

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

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

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

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

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