

Public Law 25-150

Bill No. 444 (COR)

As substituted by the Committee on Health, Human Services and Chamorro Heritage and amended on the Floor.

Introduced by:

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AN ACT TO ADD §§80104(s), 80106(g) AND 80106(h), TO REPEAL AND REENACT §80107, TO AMEND §§80106(a) AND 80106(b), ALL OF TITLE 10, TO ADD ARTICLE 12 TO CHAPTER 22 AND REPEAL AND REENACT §221108, BOTH TO TITLE 5, TO AMEND §160311(2) OF TITLE 11, AND TO AMEND §58128.6(a) OF TITLE 12, ALL OF THE GUAM CODE ANNOTATED, AND TO REPEAL AND REENACT §3 OF P.L. NO. 24-174, RELATIVE TO REHABILITATING THE GUAM MEMORIAL HOSPITAL AND CREATING A RESERVE FUND TO RECEIVE THE TOBACCO SETTLEMENT MONIES.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. This Act shall be known as “*The Hospital Finance, Governance and Management Act of 2000.*”

Section 2. Section 80104(s) is hereby *added* to Chapter 80, Division 4, Part 2 of Title 10 of the Guam Code Annotated to read as follows:

“(s) Arrange a line of credit *not to exceed* Twelve Million Dollars (\$12,000,000) with banks or other lending institutions licensed on Guam. All terms of the line of credit agreement shall be negotiated by the Authority and *I Maga’lahen Guåhan* in the best interests of the people of Guam. The terms of the line of credit shall include the following:

- (1) the line of credit shall be used by the Authority when a cash shortage threatens the operation of the Hospital, and provided that the loan shall *not* be used to finance capital improvements or the hiring of non-health care professionals *not* involved with providing direct patient care or patient care support, *except* for funding of the Guam Memorial Hospital Authority long-term care facility in Barrigada Heights;
- (2) no charge shall be levied by a lender for making the loan;
- (3) the interest rate shall be subjected to negotiation between the Authority, *I Maga’lahen Guåhan* and the lender; such interest rate shall be computed on a monthly average and based on the actual amount extended to the Authority; *and*

- (4) interest earned by the lender shall be exempt from taxation by the government of Guam.
- (5) *I Maga'lahaen Guåhan* is authorized to pledge funds which Guam shall receive from *the State Attorneys General Tobacco Litigation*, as provided by Public Law Number 24-174, or the General Fund, or both funds in any combination, as a security for repayment of the loan, in addition to any revenues which may be pledged by the Authority. *I Maga'lahaen Guåhan* and the Authority is hereby authorized to execute the loan agreement and other necessary documentation.
- (6) The line of credit authorized in this Act shall *not* be used in the calculation for rate relief in any rate methodology for any rate case before the Public Utilities Commission.”

Section 3. Identification of Funds Available from Tobacco Settlement Proceeds. Pursuant to Public Law Number 24-174, a Health and Human Services Fund has been created for the purposes of receiving all funds received by Guam in the settlement of the State Attorneys General Tobacco Litigation. A deposit has been made into this account in excess of One Million Eight Hundred Thousand Dollars (\$1,800,000), which represents the first installment of Guam’s share of this settlement.

Section 4. Appropriation of Tobacco Settlement Funds to the Guam Memorial Hospital Authority. One Million Seven Hundred Thousand Dollars (\$1,700,000) is appropriated from the Health and Human Services Fund to the Guam Memorial Hospital Authority.

Section 5. Transfer Authority Allowed to Provide Additional Funds to the Guam Memorial Hospital Authority. Subject to the provisions of §6 of Chapter V of Public Law Number 25-72, as amended by Public Law Number 25-98, *I Maga'lahaen Guåhan* is authorized to transfer *up to* One Million Dollars (\$1,000,000) from the appropriations to the various Executive Branch agencies to the Guam Memorial Hospital Authority.

Section 6. Report of Transfer. Within seven (7) days of the transfer of funds, *I Maga'lahaen Guåhan* shall submit to *I Liheslaturan Guåhan* a report detailing the appropriation source(s) from which the funds were transferred.

Section 7. Legislative Statement. This Act also sets qualifications for the Hospital Administrator so that Guam’s only civilian hospital providing acute care is headed by a person who has been trained to operate and manage a hospital. The government of Guam has adopted position descriptions that contain qualifications that a candidate must meet in order to be considered. Similarly, *I Liheslaturan Guåhan* believes it necessary to ensure that only qualified individuals be considered for this highly critical position.

I Liheslaturan Guåhan also sees merit in increasing the size of the Board of Trustees and establishing statutory qualifications for members of the Guam Memorial Hospital Authority Board of Trustees. By doing so, *I Liheslaturan Guåhan* believes that the policy-making process will improve for the hospital by including a wider cross-section of qualified people from the general public and the health care industry, *subject* to the ultimate responsibility for the governance of the Hospital by *I Maga'lahaen Guåhan*.

Section 8. Section 80107 of Chapter 80, Division 4, Part 2 of Title 10 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 80107. Administrator.

- (a) The Board shall hire or contract an Administrator, who shall be its Chief Executive Officer. The Administrator shall meet the following minimum qualifications:
 - (i) shall have graduated from a recognized college or university with a Master’s degree in hospital administration, health services management or a related field, plus six (6) years of experience in hospital administration or healthcare services management, of which three (3) years must have been experience as an administrator in a hospital setting; *or*
 - (ii) shall have graduated from a recognized college or university with a Bachelor’s degree in hospital administration, health services management, or a related field, plus eight (8) years of experience in hospital administration or healthcare services management, of which five (5) years must have been experience as an administrator in a hospital setting;
 - (iii) shall have experience in negotiating and directing activities related to obtaining reimbursement from government programs, such as Medicare, Medicaid or the Medically Indigent Program of the government of Guam; *and*
 - (iv) shall have experience in negotiating contracts with external parties, including third party payers, vendors, insurance carriers and other contracting parties.
- (b) The Administrator shall serve at the pleasure of the Board, which shall be responsible for the annual evaluation of the Hospital Administrator’s performance. The Board may hire the Hospital Administrator by direct employment as an unclassified employee of the government of Guam or by contract, as the Board deems necessary, to attract and retain a qualified Administrator.
- (c) The Administrator shall have full charge and control of the operations and maintenance of the Hospital. The powers of the Administrator shall include:
 - (i) to recommend rules and regulations for adoption by the Board of Trustees and to see that all rules and regulations of the Hospital are enforced;
 - (ii) to ensure compliance with all federal and local regulations;
 - (iii) to act as liaison to the governing body for the medical, nursing, and other professional staff and all facility departments;
 - (iv) to attend, *unless* excused by the Board, all meetings of the Board and to submit written reports on the affairs of the Hospital each month;
 - (v) to keep the Board advised on the needs of the Hospital and approve demands for payment of obligations within the purposes and amounts authorized by the Board;
 - (vi) to prepare and cause to be prepared all plans and specification for purchased services and the construction and repair of equipment and facilities operated by the Hospital and serve as the Hospital’s Chief Procurement Officer;
 - (vii) to devote that person’s entire time to the business of the Hospital, to select and appoint the employees of the Hospital, *except* as otherwise provided in this Chapter, and to plan, organize, coordinate and control the services of such employees in the exercise of the powers of the Hospital under the general direction of the Board;

- (viii) to prepare within one hundred twenty (120) days from the end of each fiscal year an annual report of the results of the operations for the preceding fiscal year and the financial status of the Hospital on the last day thereof;
- (ix) to perform and issue such other additional duties as the Board may require; *and*
- (x) to arrange for the burial of any fetus *not* claimed by its mother or father within thirty (30) days.

Section 9. Section 80106(a) of Chapter 80, Division 4, Part 2 of Title 10 of the Guam Code Annotated is hereby *amended* to read as follows:

“Section 80106. Board of Trustees.

- (a) All powers vested in the Guam Memorial Hospital Authority, *except* as provided herein, shall be exercised by the Board, which shall consist of nine (9) members, called ‘Trustees.’ The nine (9) Trustees shall consist of four (4) members representing the general public, who shall possess background and experience in healthcare, management, finance or any other business-related field; one (1) member representing the Allied Health Professions; two (2) members representing the Guam Nursing Association; two (2) members representing the Guam Medical Society. *I Maga’lahen Guåhan* shall appoint the members with the advice and consent of *I Liheslaturan Guåhan*. A Trustee shall serve a term of five (5) years. All vacancies occurring in the office shall be filled in the same manner as full-term appointments, but only for the unexpired term of the Board member whose vacancy is being filled. The Governing Board shall elect a Chairperson, Vice-Chairperson, Secretary and Treasurer from among its membership every two (2) years.”

Section 10. Section 80106(b) of Chapter 80, Division 4, Part 2 of Title 10 of the Guam Code Annotated is hereby *amended* to read as follows:

“(b) Five (5) Trustees shall constitute a quorum of the Board for the transaction of business. The concurrence of five (5) members present shall constitute official action of the Board. The Board may adopt such rules and regulations governing the conduct of its affairs.”

Section 11. Section 80106(g) is hereby *added* to Chapter 80, Division 4, Part 2 of Title 10 of the Guam Code Annotated to read as follows:

“(g) No Trustee shall be actively engaged in the selling of services or goods to the Hospital in excess of One Hundred Thousand Dollars (\$100,000.00) per year. This restriction shall *not* apply to health care professionals who provide direct patient care services to the Hospital.”

Section 12. Section 80106(h) is hereby *added* to Chapter 80, Division 4, Part 2 of Title 10 of the Guam Code Annotated to read as follows:

“(h) No Trustee shall act when a conflict of interest occurs. The Trustee shall disclose the nature of the conflict of interest to the members present and abstain from any discussion or voting on the issue until it has been disposed of by action of the remaining members present. *If* a Trustee knowingly fails to disclose a conflict of interest in the manner listed herein and subsequently votes on an action to be taken by the Board, then the vote of the conflicted Trustee

shall *not* be counted for purposes of constituting official Board action. Any Trustee who knowingly fails to disclose a conflict of interest in the manner listed herein shall be subject to immediate removal from the Board by *I Maga'lahaen Guåhan*.”

Section 13. Position of Chief Financial Officer Within the Guam Memorial Hospital Authority Established.

- (a) The position of Chief Financial Officer is established within the Guam Memorial Hospital Authority. The Chief Financial Officer shall meet the following minimum qualifications:
 - (i) shall have graduated from a recognized college or university with a Master’s degree in accounting, finance, economics, business administration or a related field, plus seven (7) years of experience in hospital administration or healthcare services management, of which five (5) years must have been as an administrator for general accounting and fiscal services; *or*
 - (ii) shall have graduated from a recognized college or university with a Bachelor’s Degree in accounting, finance, economics, business administration or a related field, plus nine (9) years of experience in hospital administration or healthcare services management, of which seven (7) years must have been as an administrator responsible for general accounting and fiscal services;
 - (iii) shall have experience in negotiating and directing activities related to obtaining reimbursement from Federal government programs, such as Medicare, Medicaid or the Medically Indigent Program of the government of Guam; *and*
 - (iv) shall have experience in negotiating contracts with external parties, including third party payers, vendors, insurance carriers and other contracting parties.
- (b) The Chief Financial Officer shall report directly to the Hospital Administrator. The Hospital Administrator shall hire the Chief Financial Officer by direct employment as an unclassified employee of the government of Guam or by contract, as is deemed necessary to attract and retain a qualified Chief Financial Officer.

Section 14. Legislative Intent. The additional intent of this Act is to set up a reserve fund for non-participating tobacco manufacturers so that Guam may participate in the full proceeds from the Master Settlement Agreement entered into on December 8, 1998 between the leading United States tobacco manufacturers and the participating states, including Guam, in what is known as the State Attorneys General Tobacco Litigation. This Act adopts the Model Statute as incorporated into the Master Settlement Agreement as Exhibit T. Guam stands to lose settlement payments if this reserve fund is *not* set up forthwith in accordance with the Model Statute.

Section 15. Adoption of Model Statute. Article 12 is hereby *added* to Chapter 22, Division 2 of Title 5 of the Guam Code Annotated to read as follows:

“ARTICLE 12.

RESERVE FUND FOR NON- PARTICIPATING TOBACCO MANUFACTURERS.

Section 221201. Findings and Purpose.

- (a) Cigarette smoking presents serious public health concerns to the State and to the citizens of the State. The Surgeon General has determined that smoking causes lung cancer, heart disease and other serious diseases, and that there are hundreds of

thousands of tobacco-related deaths in the United States each year. These diseases most often do *not* appear until many years after the person in question begins smoking.

- (b) Cigarette smoking also presents serious financial concerns for the State. Under certain health-care programs, the State may have a legal obligation to provide medical assistance to eligible persons for health conditions associated with cigarette smoking, and those persons may have a legal entitlement to receive such medical assistance.
- (c) Under these programs, the State pays millions of dollars each year to provide medical assistance for these persons for health conditions associated with cigarette smoking.
- (d) It is the policy of the State that financial burdens imposed on the State by cigarette smoking be borne by tobacco product manufacturers rather than by the State to the extent that such manufacturers either determine to enter into a settlement with the State, or are found culpable by the courts.
- (e) On December 8, 1998 leading United States tobacco product manufacturers entered into a settlement agreement, entitled the 'Master Settlement Agreement,' with the State. The Master Settlement Agreement obligates these manufacturers, in return for a release of past, present and certain future claims against them as described therein, to pay substantial sums to the State, tied in part to their volume of sales; to fund a national foundation devoted to the interests of public health; and to make substantial changes in their advertising and marketing practices and corporate culture, with the intention of reducing underage smoking.
- (f) It would be contrary to the policy of the State if tobacco product manufacturers who determine *not* to enter into such a settlement could use a resulting cost advantage to derive large, short-term profits in the years before liability may arise without ensuring that the State will have an eventual source of recovery from them *if* they are proven to have acted culpably. It is thus in the interest of the State to require that such manufacturers establish a reserve fund to guarantee a source of compensation and to prevent such manufacturers from deriving large, short-term profits and then becoming judgment-proof before liability may arise.

Section 221202. Definitions.

- (a) '*Adjusted for inflation*' means increased in accordance with the formula for inflation adjustment set forth in Exhibit C to the Master Settlement Agreement.
- (b) '*Affiliate*' means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. Solely for purposes of this definition, the terms '*owns*,' '*is owned*' and '*ownership*' mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term '*person*' means an individual, partnership, committee, association, corporation or any other organization or group of persons.
- (c) '*Allocable share*' means '*allocable share*' as that term is defined in the Master Settlement Agreement.
- (d) '*Cigarette*' means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or (2) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (3) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used

in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (1) of this definition. The term ‘*cigarette*’ includes ‘*roll-your-own*’ (i.e. any tobacco which, because of its appearance, type, packaging, or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for marking cigarettes). For purposes of this definition of ‘*cigarette*,’ 0.09 ounces of ‘*roll-you-own*’ tobacco shall constitute one (1) individual ‘*cigarette*.’

- (e) ‘*Master Settlement Agreement*’ means the settlement agreement, and related documents, entered into on December 8, 1998 by the State and leading United States tobacco product manufacturers.
- (f) ‘*Qualified escrow fund*’ means an escrow arrangement with a Federally or State chartered financial institution having no affiliation with any tobacco product manufacturer and having assets of *at least* Five Hundred Million Dollars (\$500,000,000), where such arrangement requires that such financial institution hold the escrowed funds’ principal for the benefit of releasing parties and prohibits the tobacco product manufacturer placing the funds into escrow from using, accessing or directing the use of the funds’ principal, *except* as consistent with §§3(b) through (c) of this Act.
- (g) ‘*Released claims*’ means ‘*released claims*’ as that term is defined in the Master Settlement Agreement.
- (h) ‘*Releasing parties*’ means ‘*releasing parties*’ as that term is defined in the Master Settlement Agreement.
- (i) ‘*Tobacco Product Manufacturer*’ means an entity that after the date of enactment of this Act directly, and *not* exclusively through any affiliate:
 - (1) manufactures cigarettes anywhere that such manufacturer intends to be sold in the United States, including cigarettes intended to be sold in the United States through an importer, *except* where such importer is an original participating manufacturer, as that term is defined in the Master Settlement Agreement, that will be responsible for the payments under the Master Settlement Agreement with respect to such cigarettes as a result of the provisions of Subsections II (mm) of the Master Settlement Agreement and that pays the taxes specified in Subsection II (z) of the Master Settlement Agreement, and provided that the manufacturer of such cigarettes do *not* market or advertise such cigarettes in the United States;
 - (2) is the first purchaser anywhere for resale in the United States of cigarettes manufactured anywhere that the manufacturer does *not* intend to be sold in the United States; *or*
 - (3) becomes a successor of an entity described in Paragraph (1) or (2). The term ‘*Tobacco Product Manufacturer*’ shall *not* include an affiliate of a tobacco product manufacturer, *unless* such affiliate itself falls within any of (1) through (3) above.
- (j) ‘*Units sold*’ means the number of individual cigarettes sold in the State by the applicable tobacco product manufacturer, whether directly or through a distributor, retailer or similar intermediary or intermediaries, during the year in question, as measured by excise taxes collected by the State on packs, or ‘*roll-your-own*’ tobacco containers, bearing the excise tax stamp of the State. The Department of Revenue and Taxation shall develop such procedures as are necessary to ascertain the amount of

State excise tax, *if any*, paid on the cigarettes of such tobacco product manufacturer for each year.

- (k) 'State' means Guam or the government of Guam, as the case may be.

Section 221203. Requirements. Any tobacco product manufacturer selling cigarettes to consumers within the State, whether directly or through a distributor, retailer or similar intermediary or intermediaries, after the date of enactment of this Act shall do one (1) of the following:

- (a) become a participating manufacturer, as that term is defined in §II (jj) of the Master Settlement Agreement, and generally perform its financial obligations under the Master Settlement Agreement; *or*

(b)

- (1) place into a qualified escrow fund by April 15 of the year following the year in question the following amounts, as such amounts are adjusted for inflation:

1999: \$.0094241 per unit sold *after* the date of enactment of this Act;

2000: \$.0104712 per unit sold *after* the date of enactment of this Act;

For each of 2001 and 2002: \$.0136125 per unit sold *after* the date of enactment of this Act;

For each of 2003 through 2006: \$.0167539 per unit sold *after* the date of enactment of this Act;

For each of 2007 and each year thereafter: \$.0188482 per unit sold *after* the date of enactment of this Act;

- (2) A tobacco product manufacturer that places funds into escrow pursuant to Paragraph (1) shall receive the interest or other appreciation on such funds as earned. Such funds themselves shall be released from escrow only under the following circumstances:

- (A) to pay a judgment or settlement on any released claim brought against such tobacco product manufacturer by the State or any releasing party located or residing in the State. Funds shall be released from escrow under this Subparagraph: (i) in the order in which they were placed into escrow, *and* (ii) only to the extent and at the time necessary to make payments required under such judgment or settlement;
- (B) to the extent that a tobacco product manufacturer establishes that the amount it was required to place into escrow in a particular year was *greater* than the State's allocable share of the total payments that such manufacturer would have been required to make in that year under the Master Settlement Agreement, as determined pursuant to §IX (i)(2) of the Master Settlement Agreement, and before any of the adjustments or offsets described in §IX (i)(3) of that Agreement other than the Inflation Adjustment, had it been a

- participating manufacturer, the excess shall be released from escrow and revert back to such tobacco product manufacturer; *or*
- (C) to the extent not released from escrow under Subparagraphs (A) or (B), funds shall be released from escrow and revert back to such tobacco product manufacturer twenty-five (25) years *after* the date on which they were placed into escrow.
- (3) Each tobacco product manufacturer that elects to place funds into escrow pursuant to this Subsection shall annually certify to the Attorney General that it is in compliance with this Subsection. The Attorney General may bring a civil action on behalf of the State against any tobacco product manufacturer that fails to place into escrow the funds required under this Section. Any tobacco product manufacturer that fails in any year to place into escrow the funds required under this Section shall:
- (A) be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this Section. The Court, upon a finding of a violation of this Subsection, may impose a civil penalty to be paid to the General Fund in an amount *not to exceed* five percent (5%) of the amount improperly withheld from escrow per day of the violation and in a total amount *not to exceed* one hundred percent (100%) of the original amount improperly withheld from escrow;
 - (B) in the case of a knowing violation, be required within fifteen (15) days to place such funds into escrow as shall bring it into compliance with this Section. The Court, upon a finding of a knowing violation of this Subsection, may impose a civil penalty to be paid to the General Fund in an amount *not to exceed* fifteen percent (15%) of the amount improperly withheld from escrow per day of the violation, and in a total amount *not to exceed* three hundred percent (300%) of the original amount improperly withheld from escrow;
 - (C) in the case of a second knowing violation, be prohibited from selling cigarettes to consumers within the State, whether directly or through a distributor, retailer or similar intermediary, for a period *not to exceed* two (2) years. Each failure to make an annual deposit under this Section shall constitute a separate violation; *and*
 - (D) be required to pay the State's costs and attorney's fees incurred during a successful prosecution of any action brought under this Paragraph (3)."

Section 16. Section 3 of Public Law Number 24-174 is hereby *repealed and reenacted* to read as follows:

“Section 3. Tobacco Litigation Settlement. Any and all funds which Guam shall receive from the State Attorneys General Tobacco Litigation Settlement shall be deposited into the Health and Human Service Fund, *except* as may be required to be deposited into the Reserve Fund for Non-Participating Tobacco Manufacturers.”

Section 17. Section 221108 of Article 11, Chapter 22, Division 2 of Title 5 of the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

“Section 221108. Deposit. All proceeds entitled to Guam from the tobacco lawsuit settlement shall be deposited into the HAHS Fund established by this Act, *except* as may be required to be deposited into the Reserve Fund for Non-Participating Tobacco Manufacturers. All monies deposited into the HAHS Fund shall be expended exclusively for the purposes enumerated in §221003 and the general intent of this Act.”

Section 18. Guam Based Trust Funds to Hospital. Section 160311(2) of Article 3, Chapter 160, Division 2 of Title 11 of the Guam Code Annotated, as added by Public Law Number 25-73, is hereby *amended* to read as follows:

“2. The first One Million Dollars (\$1,000,000) generated from the trust shall be authorized and appropriated to the Guam Memorial Hospital Authority. All other revenues generated from the implementation of this Act, including, but not limited to, the initial and annual License Fees, Examination Fees and interest earned from these funds, shall be allocated as follows:

- (a) *subject* to legislative appropriation, up to fifty percent (50%) to the Chamorro Land Trust Commission, for the purposes of infrastructure development (i.e. roads, power, water, sewer and telephone services) on Chamorro Land Trust properties;
- (b) *subject* to legislative appropriation, up to ten percent (10%) shall be earmarked for the Department of Revenue and Taxation for maintaining the operational functions of the government of Guam;
- (c) *subject* to legislative appropriation, up to ten percent (10%) of this revenue, shall be remitted *immediately* to the Guam Economic Development Authority for the development and promotion of Guam’s financial services industry; *and*
- (d) all remaining revenues generated from the implementation of this Act shall be remitted to the General Fund to be appropriated by *I Liheslaturan Guåhan*.”

Section 19. Section 58128.6(a) of Chapter 58, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

“Section 58128.6

- (a) **One Hundred Percent Rebate on Certain Trust Income.** A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Guam-based trust on all its earnings from either inside or outside of Guam, including all income derived from investing funds on Guam or elsewhere, may be issued for a period *not to exceed* twenty (20) consecutive years from the effective date of a Special Qualifying Certificate therefor. For purposes of this §58128.6, a ‘*Guam-based trust*’ means: (i) an arrangement created by will or by an *inter vivos* declaration whereby a trustee or trustees take title to property to protect or conserve the same for a beneficiary or beneficiaries of the trust under probate or chancery court rules; (ii) Guam is the principal place of administration of the trust, and for trusts with United States fiduciaries, a choice of laws election can be made for primary jurisdiction to be under the Federal District Court of the elected state; (iii) a minimum of Ten Thousand Dollars (\$10,000.00) in U.S. currency remains in deposit at a local financial institution for the duration of the trust; *and* (iv) the trust property is *not* employed, directly or as

shareholder, in a business for the settlor or the beneficiary, and for the purposes of this Subsection, ‘business’ has the same meaning as ‘engaging in or carrying on a business’ as in the Business License Law in §70103(c) of Title 11 of the Guam Code Annotated and includes *only* businesses which are required to be licensed, or are excepted from obtaining a license pursuant to the policy and provisions of §§70102 and 70130 of Title 11 of the Guam Code Annotated. A Guam-based trust shall be defined as a person under Treasury Regulation §301.7701-7(a) and notwithstanding the definition contained in Treasury Regulation §301.7701-7(c)(3)(ii), a Guam-based trust shall be considered a United States Domestic Trust under the provisions of §301.7701(c)(4)(ii)(D). Such Special Qualifying Certificates for Guam-based trusts may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods *so long as* the trust remains in good standing under the laws of Guam and under the rules and regulations of the Authority.”

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