

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *IMAGA'LAHEN GUÅHAN*

This is to certify that Substitute Bill No. 125 (COR), "AN ACT TO *ENHANCE THE DEVELOPMENT OF RECREATION AND SPORTS IN GUAM BY REPEALING AND REENACTING SECTIONS 2, 3, 4, AND 5 OF PUBLIC LAW 26-166 AS §§77112.1(d), 77112.2, AND 77112.3 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE LEASE OF THE PASEO STADIUM BY THE GUAM BASEBALL FEDERATION, A NON-PROFIT ORGANIZATION; BY AMENDING §2111 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF COURT CLEARANCES AND POLICE REPORTS FOR VOLUNTEERS OF YOUTH RECREATIONAL ORGANIZATIONS; AND BY ADDING A NEW §15201.2 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE PROCUREMENT OF ACCIDENT AND LIABILITY INSURANCE BY YOUTH RECREATIONAL ORGANIZATIONS,*" was on the 7th day of July, 2003, duly and regularly passed.

Attested:

vicente (ben) c. pangelinan
Speaker

Tina Rose Muña-Barnes
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this ____ day of July, 2003, at ____ o'clock ____ .M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahen Guåhan

Date: _____

Public Law No. _____

I MINA'BENTE SIETE NA LIHESLATURAN GUÅHAN
2003 (FIRST) Regular Session

Bill No. 125 (COR)

As amended by the Author, substituted by the Committee on Community, Culture, Recreation and Public Broadcasting; further substituted by the Author, and amended on the Floor.

Introduced by: T. R. Muña-Barnes

L. A. Leon Guerrero

F. R. Cunliffe

J. M. Quinata

J. A. Lujan

R. J. Respicio

Toni Sanford

C. Fernandez

Mark Forbes

F. B. Aguon, Jr.

J. M. Brown

L. F. Kasperbauer

R. Klitzkie

v. c. pangelinan

Ray Tenorio

AN ACT TO *ENHANCE* THE DEVELOPMENT OF RECREATION AND SPORTS IN GUAM BY *REPEALING* AND *REENACTING* SECTIONS 2, 3, 4, AND 5 OF PUBLIC LAW 26-166 AS §§77112.1(d), 77112.2, AND 77112.3 OF TITLE 21 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE LEASE OF THE *PASEO* STADIUM BY THE GUAM BASEBALL FEDERATION, A NON-PROFIT ORGANIZATION; BY *AMENDING* §2111 OF TITLE 4, GUAM CODE ANNOTATED, RELATIVE TO THE ISSUANCE OF COURT CLEARANCES AND POLICE REPORTS FOR VOLUNTEERS OF YOUTH RECREATIONAL ORGANIZATIONS; AND BY *ADDING* A NEW §15201.2 TO TITLE 22 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE PROCUREMENT OF ACCIDENT AND LIABILITY INSURANCE BY YOUTH RECREATIONAL ORGANIZATIONS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Intent. *I Liheslaturan Guåhan* recognizes the steady development of baseball in Guam as evidenced by the continued activities and accomplishments of the various members of the Guam Baseball Federation, the recognized umbrella organization established for the youth and adult baseball leagues in Guam, including the Guam Major League, the Guam Little League, and the Guam Babe Ruth in local, regional, national, and international competition such as the South Pacific Games, the Micronesia Games, and the Little League World Series.

It is the intent of *I Liheslaturan Guåhan* to provide the necessary tools and accommodations to assist the Guam Baseball Federation in the development of a professional infrastructure for the development of baseball, including the proposed establishment of a Guam Baseball Academy, which will have a positive impact for the youth of Guam. These tools will enable the Guam Baseball Federation to further the island's overall marketing for Sports Tourism.

Therefore, *I Liheslaturan Guåhan* intends to develop the existing *Paseo* Stadium and ancillary facilities into a municipal stadium facility, in the interest of further enhancing the development of baseball in Guam. The Department of Parks and Recreation has entered into an adopt-a-stadium agreement with

the Guam Baseball Federation on June 28, 2002. While the agreement already gives the Guam Baseball Federation the responsibility of maintaining, managing and upgrading the stadium, it is the consensus of *I Liheslaturan Guåhan* that a long term lease agreement would ensure the infusion of much needed funds from the private sector for the repair and development of the stadium, and more importantly, the continuity of maintenance and upkeep.

This Bill therefore, authorizes the Director of Parks and Recreation or its successor agency, to enter into a lease agreement pursuant to §60112 of Title 21 of the Guam Code Annotated, and mandates certain conditions and stipulations which, in the interest of the public, are to be incorporated in any agreement to lease the *Paseo* Stadium.

Section 2. Section 2 of Public Law 26-166 is *repealed* and *reenacted* to read:

“Section 2. A new §77112.1(d) is added to Article 1, Chapter 77, Subpart E, of Title 21, Guam Code Annotated, to read:

(d) Notwithstanding any other provision of law, the Department of Parks and Recreation (DPR) or its successor agency, is authorized to lease the *Paseo* Stadium to the Guam Baseball Federation (GBF) for a period to be mutually agreed upon by both parties, but *not* to exceed fifty (50) years, including all options. Such lease shall be limited to management and maintenance operations; the scheduling of games and events; the sale of billboards and other advertising signage; improvement of the playing field, structure, lighting, and other provisions mutually agreed upon between DPR and the GBF, and *not* inconsistent with existing laws. The GBF shall not have the authority to sublet, transfer or assign such lease to other parties without prior approval of *I Liheslatura*, except that the GBF may enter into sub-leases with businesses and organizations that wish to operate concessions.”

Section 3. Section 3 of Public Law 26-166 is hereby *repealed* and *reenacted* to read:

“Section 3. A new §77112.2 is added to Article 1, Chapter 77, Subpart E, of Title 21, Guam Code Annotated, to read:

§77112.2. *Paseo* Stadium Lease Stipulations.

(a) Plans for structural changes or improvements, intended to induce private sector participation, including, but *not* limited to, the improvement, expansion or re-configuration of the facility, playing field and other ancillary facilities, shall be made pursuant to the Stadium Master Plan, to be developed by the GBF following a GBF public hearing, in consultation and with the approval of the Parks and Recreation Commission or its successor. All stadium revenue-generated funds, except those exempted, to include user fees, advertising revenues, and any other

fees generated through GBF management of the *Paseo* Stadium and ancillary facilities, shall be placed into a GBF-established checking account called the ‘Municipal Stadium Operations Fund’ (MSOF) and shall consist only of stadium revenue-generated funds. All funds in the MSOF, separate from any GBF account or monies, shall be used only to fund *Paseo* Stadium maintenance, facility improvements and stadium operations; compensate stadium-related contractual and utility costs; and facilitate MSOF management costs, to include the audit of the Fund.

(b) *Paseo* Stadium maintenance personnel currently in classified positions in the Department of Parks and Recreation and currently assigned to the *Paseo* Stadium, shall *not* be removed from their positions, *unless* for cause, and removal shall be carried out pursuant to Title 4 of the Guam Code Annotated. The hiring of additional personnel necessary to maintain and improve the *Paseo* Stadium and ancillary facilities shall be at the expense of the Guam Baseball Federation.

(c) The lease agreement specified under this Chapter shall include a provision granting free admission to citizens fifty-five (55) years of age and older at all stadium activities and functions requiring a fee.

(d) The lease agreement specified under this Chapter may include a provision requiring the sharing of payment of utilities charges at the *Paseo* Stadium. Such provision, *however*, shall be implemented in the following manner:

(1) payment by the Department of Parks and Recreation of all utilities charges incurred during the first year of the effective date of the lease agreement; *provided*, that the Department is allotted funds for this purpose by *I Liheslaturan Guåhan* in its annual budget appropriations;

(2) payment of all utilities charges during the second year of the agreement, to be shared *equally* between the Department of Parks and Recreation and the Guam Baseball Federation; *provided*, that the Department of Parks and Recreation is allotted funds for this purpose by *I Liheslaturan Guåhan* in its annual budget appropriations; *and*

(3) payment of all utilities charges to be borne *solely* by the Guam Baseball Federation during the third year and every year thereafter that the lease is in effect.

(e) Any lease agreement inclusive of the Stadium Master Plan entered into pursuant to this Chapter shall be subject to legislative approval.

(f) **Exempted Funds.** The GBF is authorized to retain an amount not to exceed twenty-five percent (25%), but in no case to exceed Twenty-five Thousand Dollars (\$25,000.00) per year of all MSOF generated funds including stadium sponsorship revenues for the

development and enhancement of baseball programs and activities approved by the GBF Board. These retained funds shall not be a part of the MSOF. The exempted funds shall be audited annually and the GBF shall submit, no later than March 15 of each year, an annual audited financial statement to the Office of the Public Auditor, to the Speaker of *I Liheslaturan Guåhan*, and to *I Maga'lahaen Guåhan*.

(g) The GBF Commissioner and the Director of Parks and Recreation shall be the custodian of the MSOF. All MSOF disbursement checks shall require the signatures of the president and either the treasurer or secretary.

(h) Unless the GBF shall submit, no later than March 15 of each year, an annual audited financial statement of the MSOF to the Director of DPR, the Parks and Recreation Commission, and the Office of the Public Auditor, the lease is terminated. All funds and accounts established pursuant to this Section are subject to the scrutiny of the Office of the Public Auditor.

(i) No funds collected or donated pursuant to this Chapter or any lease pursuant to this Chapter, shall be used to pay past due obligations of the Guam Baseball Federation.

(j) The Guam Baseball Federation shall report semi-annually to *I Liheslaturan Guåhan* the cost of improvements it makes to the Stadium from funds *other* than the tax credits authorized herein.”

Section 4. Section 4 of Public Law 26-166 is hereby *repealed* and *reenacted* to read:

“Section 4. A new §77112.3 is added to Article 1, Chapter 77, Subpart E, of Title 21, Guam Code Annotated, to read:

§77112.3. Application of Tax Credits.

(a) Individuals, corporations, or limited liability companies making up-front contributions, as approved by the Director of Parks and Recreation and the GBF Board of Directors, towards the development, upgrading, repair and maintenance of the *Paseo* Stadium and ancillary facilities, consistent with a Stadium Master Plan, shall be authorized tax credits against Excise Taxes levied pursuant to Chapter 22 (Annual Excise and Admission Taxes), Article 3 of Chapter 26 (Alcoholic Beverage Tax), Article 4 of Chapter 26 (Liquid Fuel Tax), Article 6 of Chapter 26 (Tobacco Tax), Chapter 28 (Use Tax Law), and Chapter 30 (Monthly Excise Tax on Occupancy of Hotel and Similar Lodging House Facilities), of Division 2 of Title 11, Guam Code Annotated, *not* to exceed the aggregate amount for all contributors collectively, of Five Hundred Thousand Dollars (\$500,000.00) annually for the first two (2) years following the enactment of this Law and One Hundred Thousand Dollars (\$100,000.00) annually for five (5) subsequent

years. The Director of the Department of Revenue and Taxation shall determine the allocation of the aggregate annual tax credits between contributors. Any donation of merchandise authorized pursuant to this Section shall be the actual cost of the item plus the cost of transportation from the point of origin to its destination without profit, mark-up or taxes. All tax credits referred to in this Section shall mean tax credits applied against excise tax liabilities. The Guam Economic Development and Commerce Authority ('GEDCA') shall submit to *I Liheslatura* within thirty (30) days upon the enactment of this Act, rules and regulations governing the implementation of tax credits portion of this Chapter.

(b) Tax credits which cannot be applied during a tax year may be applied during subsequent tax years.

(c) Tax credits shall not be applied to more than fifty percent (50%) of the contributor's monthly excise tax liability.

(d) GEDCA shall certify that participants are in compliance with this Section, other provisions of law, the GBF Master Plan, the lease between GBF and the government of Guam, and with applicable provisions contained in tax credits previously granted to sports based activities, and shall provide a copy of this certification to the Department of Revenue and Taxation for the issuance of such tax credits.

(e) All expenditures hereunder shall be in accordance with the Guam Procurement Law."

Section 5. 4 GCA §2111 is hereby *amended* to read as follows:

"§2111. Volunteers Exempt from Certain Screening Costs. All volunteers working uncompensated in any agency of the government of Guam or as certified volunteers of youth recreational organizations shall be exempt from clearance and screening fees charged by government of Guam agencies, including police and court clearances and skin test for tuberculosis administered by a government of Guam agency. This exemption does not apply to chest x-rays required of positive skin test readers or drug testing; however, nothing herein shall prevent any appointing agency from paying for such examinations for its volunteers."

Section 6. A new §15201.2 is *added* to Title 22 of the Guam Code Annotated to read:

"§15201.2. Affordable Accident and Liability Insurance for Youth Recreational Organizations. Youth Recreational Organizations shall have the authority to procure accident, liability and volunteer insurance from off-island carriers recommended or designated by any national organization in which they are an affiliate. For the purposes of this Section, the Insurance

Commissioner shall certify that accident or liability insurance is unaffordable if such insurance offered by the national organization is at least ten percent (10%) less than the cost of any accident or liability insurance offered on-island.”

Section 7. Section 5 of Public Law 26-166 is hereby *repealed*.

Section 8. 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 other 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.