

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) REGULAR SESSION

Bill No. 36-31 (COR)
Introduced by:

v.c. pangelinan

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AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 50, TITLE 12, GUAM CODE ANNOTATED, ESTABLISHING THE "GOVERNMENT OF GUAM MITIGATION PROGRAM FOR BUSINESS INTERRUPTION."

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Statement and Intent.** *I Liheslaturan Guåhan* finds
2 that the expansion of the United States' military footprint will result in increased
3 construction activity, particularly in the public infrastructure sector. At present, there has
4 been an increase in road construction throughout the island of Guam, both in volume and
5 scope, to levels which are negatively impacting villages, its residents, and businesses.
6 The expansion of the United States' military footprint on Guam imposes a tremendous
7 strain on Guam's finite resources. With dozens of road construction projects covering
8 hundreds of miles being undertaken at the same time, timely completion of the projects
9 have been problematic. Thus harmonious, orderly, and beneficial improvements that
10 sustain the current quality of life for village residents, commuters, and businesses are not
11 achieved.

12 As such, *I Liheslaturan Guåhan* finds that appropriate mitigation programs need
13 to be in place to ensure that the negative impact of road construction on residents and
14 businesses is minimized.

15 Therefore, *I Liheslaturan Guåhan* intends to empower and authorize the Guam
16 Economic Development Authority (GEDA) to develop, implement, and administer the
17 "**Government of Guam Mitigation Program for Business Interruption**" known herein
18 as "Project" with the purpose of providing financial relief to businesses adversely
19 affected by government projects including but not limited to road construction. The

1 following authority granted to GEDA coincides with its self-proclaimed mission to
2 develop a sound and sustainable economy through innovative programs that preserve and
3 promote local culture, economic opportunities, and quality of life.

4 As the following Program seeks to expand on the capability of GEDA, the
5 funding source of the Program shall be derived from the resources generated by GEDA.
6 Specifically, GEDA has the ability to generate revenues from various sources such as
7 proceeds from bond origination fees, which are sporadic but are of sizable amounts. As
8 bond proceeds do not represent routine revenue sources, these funds will be available to
9 fund nascent programs such as the Program. In fiscal year 2010, GEDA collected in
10 excess of Five Hundred Thousand Dollars (\$500,000) in bond fees associated with bond
11 sales for the Guam Power Authority, the Guam Waterworks Authority, and International
12 Bridge Corporation. Bond fees earned by GEDA last fiscal year shall serve as the seed
13 capital for the Program.

14 Likewise, GEDA's function of providing loans in pursuit of the economic
15 development of Guam is not a new concept; rather, loans granted under the Program is
16 nothing but a logical expansion of the scope of GEDA's role in the sustainability of
17 economic development. Rather than create new industries, the Program seeks to preserve
18 current industries and keep businesses in place.

19 The goal of the Program is to provide financial assistance through grants and
20 loans to small and mid-size businesses adversely impacted by government projects such
21 as road construction so as to ensure their continued existence and minimize interruption
22 to local commerce.

23 The financial assistance provided by the Program does not intend to stifle free
24 market competition but rather to promote it. It seeks to promote free market competition
25 by supporting small and mid-size businesses that have been operating successfully and
26 keeping their doors open when faced with material changes in their physical environment
27 caused by circumstances beyond their control. As the change in their physical
28 environment was attributable to government projects, *I Liheslaturan Guåhan* intends to
29 make whole the businesses impacted by supplanting their significant drop in revenues
30 thereby preserving the current competitors in the industry.

- 1 (e) "government" means the Government of Guam or its instrumentality;
- 2 (f) "small business" means a business that employs ten or fewer full-time equivalent
- 3 employees and is located in an area that is adjacent to an eligible government
- 4 project;
- 5 (g) "mid-size business" means a business that employs twenty or fewer full-time
- 6 equivalent employees and is located in an area that is adjacent to an eligible
- 7 government project; and
- 8 (h) "Program" means the Government of Guam Mitigation Program for Business
- 9 Interruption.

10 **§50303. Administration.** The following provisions shall govern the administration of

11 this entire Chapter.

12 (a) Administrator. The Administrator of the Guam Economic Development Authority

13 of the Government of Guam (herein known as the Administrator) shall have the

14 following duties, powers, and authority:

15 (1) Establish procedures for receiving, responding, and approval of

16 applications to the Program. The Administrator shall notify each

17 applicant, in writing, of the outcome of the application no later than

18 thirty (30) days after a completed application package is received. If an

19 applicant to the Program is denied, the Administrator shall provide no

20 later than five (5) days after the decision, a written explanation on the

21 basis of the denial. An applicant denied by the Administrator may

22 appeal the decision pursuant to §50308 of this Act.

23 (2) Establish procedures for the periodic assessment of the Program which

24 shall be transmitted to the Speaker of *I Liheslaturan Guåhan* sixty (60)

25 days after the close of the fiscal year. The assessment, at a minimum,

26 shall include the number of applicants to the Program, the names of

27 Program recipients, funds distributed for the year, the current balance

28 of the Program, and Program analysis on its legislative intent.

29 (3) Publish on the Guam Economic Development Authority website sixty

30 (60) days after the close of the fiscal year the number of applicants to

31 the Program, the names of Program recipients, the number of Program

1 recipients, funds distributed for the year, the current balance of the
2 Program and Program analysis on its legislative intent.

3 (4) Establish criteria for the review and approval of Program applications
4 consistent with this Act and its intent.

5 (5) Promote and publish on the Guam Economic Development Authority
6 website information regarding the Program, its requirements, and
7 benefits to small and mid-size business owners.

8 **§50304. Eligibility.** To be eligible for Program benefits an applicant must meet the
9 eligibility criteria as stipulated below. Program applicants shall:

10 (a) Be bona fide residents of Guam and a United States citizen, or a permanent
11 resident alien;

12 (b) Not have any outstanding taxes due to the Department of Revenue and
13 Taxation and/or any outstanding debts at the Guam Memorial Hospital
14 Authority which are not subject to an approved and current payment plan;

15 (c) Possess a valid business license; and

16 (d) Be current with all reporting of taxes to the Department of Revenue and
17 Taxation.

18 **§50305. Applications.** An applicant shall prepare and submit to the Administrator a
19 written proposal detailing strategies on how the applicant will implement the funds
20 received to ensure the viability of the business. Specific requirements for §50304 and
21 §50305 are enumerated in §50306 and §50307 of this Act.

22 **§50306. Application for Program Grants.** Applicants who are owners of small
23 businesses with annual revenues less than Two Hundred Thousand Dollars (\$200,000)
24 shall be eligible for a Twelve Thousand Dollar (\$12,000) grant from the Guam Economic
25 Development Authority. The grant shall have the following limitations:

26 (a) The grant shall be used to subsidize general operating expenses and provide
27 working capital to small businesses, including but not limited to the payment
28 of rent, employee salaries and benefits, supplies, and utilities;

29 (b) The grant is non-renewable; and

30 (c) The grant will be distributed in three equal monthly payments.

1 Upon expiration of the grant, the grant recipients have the option of applying for a loan
2 pursuant to §50305. No additional documents need to be submitted by grant recipients to
3 receive the Program loans.

4 **§50307. Application for Program Loans.** Applicants who are owners of mid-size
5 businesses with annual revenues less than One Million Dollars (\$1,000,000) shall be
6 eligible for a loan of up to One Hundred Thousand Dollars (\$100,000) from the Guam
7 Economic Development Authority. The loan shall have the following limitations:

- 8 (a) The loan shall be used to subsidize general operating expenses and provide
9 working capital to mid-size business, including but not limited to the
10 payment of rent, employee salaries and benefits, supplies, and utilities;
- 11 (b) The loan shall be payable in a period not to exceed ten (10) years;
- 12 (c) The interest rate on the loan shall be based on the U.S. Treasury Index Rate
13 plus up to four percent (4%);
- 14 (d) The loan shall allow for flexible payment terms in the event the applicant
15 falls on economic hardship; and
- 16 (e) The loan is non-renewable.

17 **§50308. Appeal.** An applicant may appeal a denial within thirty (30) days of receipt of
18 the written denial notice. The applicant shall submit to the Guam Economic Development
19 Authority Board appropriate documentation disputing the basis of the denial. The Board
20 shall render a decision within fifteen (15) days after receipt of an appeal. The decision of
21 the Board shall be final.

22 **§50309. Funding.** The funding sources of the Program shall come from the following
23 sources:

- 24 (a) The Guam Economic Development Authority shall obtain business
25 interruption insurance policy coverage of up to Two Million Dollars
26 (\$2,000,000) for the purpose of distributing grant benefits pursuant to §50306.
27 Payment of the annual insurance premiums for the policy coverage shall be
28 taken from the bond origination fees generated by GEDA and
- 29 (b) The Guam Economic Development Fund Act (GEDFA) shall provide the
30 funding source for the loans granted pursuant to §50307.

1 **§50310. Fund Distribution.** In distributing funds, the Administrator shall consider the
2 types of businesses affected by the eligible government project and shall balance funding
3 between the number of eligible applicants and the funds available in this Act.”

4 **Section 3. Appropriation.** The sum of Four Hundred Thousand Dollars
5 (\$400,000) is appropriated from the fund balance of the Guam Economic Development
6 Authority as seed capital for the Program.

7 **Section 4. Effective Date.** This Act shall become effective upon enactment

8 **Section 5. Severability.** If any provision of this Law or its application to any
9 person or circumstances is found to be invalid or contrary to law, such invalidity shall not
10 affect other provisions or applications of this Law which can be given effect without the
11 invalid provisions or application, and to this end the provisions of this Law are severable.