

MINA' TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session

Bill No.

Introduced by:

T. R Muña Barnes
B.J.F Cruz

**AN ACT TO CREATE THE GUAM FILM OFFICE BY ADDING A
NEW ARTICLE 4 TO CHAPTER 50 OF DIVISION 2 OF TITLE 12,
GUAM CODE ANNOTATED.**

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

2 **Section 1.** A new Article 4 is here *added* to Chapter 50 of Division 2 of
3 Title 12, Guam Code Annotated, to read:

“Article 4

Guam Film Office

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- 6 **§50401. Definitions.**
- 7 **§50402. Guam Film Office.**
- 8 **§50403. Rules and Regulations.**
- 9 **§50404. Guam Film Office Fund.**
- 10 **§50405. Permits Required.**
- 11 **§50406. Exemptions.**
- 12 **§50407. Applicants and Issuance.**
- 13 **§50408. Indemnification of Government Against Liability.**
- 14 **§50409. Insurance and Bonding Required.**
- 15 **§504010. Effective Date.**
- 16 **§50411. Severability.**
- 17 **§50401. Definitions.**

1 a) “Administrator” means the administrator of the Guam Film
2 Office, who shall be the Director of the Guam Economic Development
3 Authority or his/her designee.

4 b) “Charitable or student films” shall mean commercials, motion
5 pictures, television, videotapes, or still photography produced by a
6 nonprofit organization that is registered with the Department of
7 Revenue and Taxation or the Internal Revenue Service as a charitable
8 organization or is produced by students of an educational institution,
9 and for which no person, directly or indirectly, shall receive a profit
10 from the marketing and production of the film or from showing the
11 films, tapes, or photos.

12 c) “Commercial films,” shall mean and include all activity
13 attendant to filming any entertainment or advertising programs for any
14 media now known or hereafter created.

15 d) “Filming” shall mean and include all activity attendant to
16 staging or shooting commercial motion pictures, television shows or
17 programs, and commercial still photography, video tapes, computer-
18 based programs, or other visual reproduction technology now known or
19 hereafter created. The period of filming includes the set-up, strike and
20 time of photography.

21 e) “Government” shall mean the Government of Guam its
22 authorized agents, officers, representatives and employees of
23 departments, agencies, autonomous agencies, offices or
24 instrumentalities.

25 f) “News Media” shall mean the photographing, filming or
26 videotaping for the purpose of spontaneous, unplanned television news
27 broadcast or reporting for print media by journalists, reporters,

1 photographers or camera operators.

2 g) "Private Property" shall mean any property not owned by the
3 Government of Guam on which filming would not interfere with public
4 right of way, access or safety.

5 h) "Pyrotechnic Device" means any combination of materials,
6 including pyrotechnic compositions, which, by the agency of fire,
7 produce an audible, visual, mechanical or thermal effect designed and
8 intended to be useful for industrial, agricultural, personal safety, or
9 educational purposes. The term "pyrotechnic device" includes, but is
10 not limited to, agricultural and wildlife fireworks, model rockets,
11 exempt fireworks, emergency signaling devices, and special effects.

12 i) "Pyrotechnic operator" means any licensed pyrotechnic
13 operator, who by examination, experience, and training, has
14 demonstrated the required skill and ability in the use and discharge of
15 fireworks as authorized by the license granted.

16 j) "Studio" shall mean a fixed place of business where filming
17 activities (motion or still photography) are regularly conducted upon the
18 premises.

19 **§50402. Guam Film Office.**

20 There is hereby established within the Guam Economic
21 Development Authority a Guam Film Office. The Administrator of the
22 Guam Economic Development Authority shall be responsible for the
23 administration of the Guam Film Office.

24 **§50403. Rules and Regulations.**

25 a) Rules and Regulations. The Administrator *shall* cause the
26 promulgation of rules, regulations and fees to govern the form, time and
27 location of filming activity set forth within Guam. The rules and

1 regulations *shall* also provide for the issuance of permits. The rules,
2 regulations, and fees shall be adopted in accordance with the
3 Administrative Adjudication Act, Title 5 Guam Code Annotated,
4 Chapter 9, within ninety (90) days upon the enactment of this Article.
5 The rules and regulations shall be based upon the following criteria:

- 6 1. The health and safety of all persons;
- 7 2. Avoidance of undue disruption of all persons within the
8 affected area;
- 9 3. The safety of property in Guam; and
- 10 4. Traffic congestion at particular locations in Guam

11 **§50404. Guam Film Office Fund.** There is established a fund to be
12 known as the Guam Film Office Fund, which *shall* be maintained
13 separate and apart from any other funds of the government of Guam,
14 including the General Fund of the government of Guam. Independent
15 records and accounts *shall* be maintained in connection therewith.
16 Funds of the Guam Film Office Fund shall be used exclusively for the
17 administration and operations of the Guam Film Office. All funds
18 collected from fees, charges or fines levied pursuant to this Chapter
19 *shall* be deposited into the Guam Film Office Fund and all interest
20 earned by the Guam Film Office Fund *shall* accrue. Any
21 unencumbered funds remaining in the Guam Film Office Fund at the
22 end of each fiscal year *shall* remain in that Fund. The Guam Film
23 Office Fund *shall* be subject to audits by the Office of Public
24 Accountability.

25 **§50405. Permits Required.**

- 26 a) Permit Required. No person shall use any government street,
27 alley, sidewalk, park, pier, way or other public property owned or

1 controlled by the Government of Guam for the purpose of making
2 commercial films without first applying for and receiving a permit
3 from the Guam Film Office Administrator or his/her designee,
4 provided that the provisions of this chapter shall not apply to or be
5 construed to affect (1) news media and (2) filming solely for private-
6 family use.

7 b) No person shall use any private property for the purpose of
8 making commercial films without first applying for and receiving a
9 permit from the Guam Film Office Administrator or his/her designee.
10 Notwithstanding the foregoing, the provisions of this chapter shall not
11 apply to or be construed to affect the following filming on private
12 property:

- 13 1. Filming which requires no parking variances and uses no
14 public property or rights of way on public property;
- 15 2. Filming which does not impair the quiet enjoyment of
16 the surrounding properties;
- 17 3. Filming which does not involve the use of any
18 pyrotechnic devices;
- 19 4. A licensed business which regularly employs a licensed
20 pyrotechnic operator;
- 21 5. Filming by news media;
- 22 6. Filming solely for private-family use; or
- 23 7. Filming which does not interfere with the public's use of
24 government property.

25 c) Except as provided herein, each applicant must comply with all
26 local and federal laws and regulations, and must obtain all necessary
27 permits and licenses as a precondition for the commencement of

1 commercial film production hereunder. Thereafter, the permittee shall
2 remain in full compliance with all local and federal laws, regulations,
3 permits and licenses throughout the filming.

4 d) Upon reasonable notice by the applicant, the Administrator or
5 his/her designee is authorized, upon showing of good cause, to change
6 the conditions under which a permit has been issued, provided that the
7 requirements of this chapter are met and the government of Guam
8 department, agency, autonomous agency, office or instrumentality can
9 undertake all necessary administrative review within the time
10 requested.

11 **§50406. Exemptions.** The provisions of this chapter shall not apply to
12 or affect:

13 A. News Media. Reporters, photographers or cameramen in
14 the employ of a newspaper, news service, or similar
15 entity engaged in the on-the-spot broadcasting of news
16 events concerning those persons, scenes or occurrences
17 which are in the news and of general public interest,
18 including sporting events.

19 B. Private/Family Use. The filming or video taping of
20 motion pictures solely for private/family use.

21 C. Charitable Films and Student Films. Projects produced
22 by a nonprofit organization that is registered with the
23 Department of Revenue and Taxation or the Internal
24 Revenue Service as a charitable organization or produced
25 by a student(s) of an educational institution.

1 D. Small Crews. If the crew does not exceed five persons
2 and there is no extensive use of props, equipment, cast or
3 other participants, the small crew shall be exempt if:

4 1. Pedestrian and vehicular traffic is not altered.

5 2. The crew is filming a parade, demonstration or
6 other special event. The company must obtain all
7 permission that may be required. The exemption merely
8 allows them to operate on the same basis as a citizen with
9 a camera.

10 3. Camera tripods are used and do not interfere
11 with pedestrian traffic or do not block doors,
12 passageways, etc.

13 4. No special parking provisions are included.

14 5. No stunt work is performed.

15 6. Permission is obtained from controlling
16 authorities to use Government of Guam property, other
17 than sidewalks and streets.

18 7. Permission is obtained from owners to use
19 private property.

20 E. Local Production Companies. For the purposes of this
21 act, companies licensed by the Department of Revenue
22 and Taxation, to do business in Guam, are exempt from
23 paying permit fees if:

24 1. The production company is headquartered in
25 Guam.

26 2. The production company pays taxes in Guam.

3. The daily operations of the production company are managed by a resident of Guam.

§50407. Applicants and Issuance.

a) Issuing Authority. The issuing authority shall be the Guam Film Office Administrator.

b) Applications. Each application for filming under this chapter must be completed in full and filed with the Administrator or his/her designee. The following information shall be included in the application:

1. The applicant's/organization's name, address and telephone number of place of business;
2. A general statement of the nature of the proposed filming activity, including a detailed description of any potentially disruptive activities;
3. The inclusive hours and dates such activity will transpire;
4. The name of the property owner, and if applicable, business owner, or owner's designee, the address and telephone number of the place at which the activity is to be conducted;
5. The specific location at such address or place of each activity scheduled;
6. The type of activity scheduled for that day and time;
7. The exact number of personnel to be involved;
8. The name, address and telephone number of the person or persons in charge of such filming activity;

1 9. A statement regarding the use of animals, pyrotechnics
2 or any other hazardous activity;

3 10. A list of major equipment to be used, including but not
4 limited to trucks, buses, limousines, generators, portable
5 restrooms, and cameras;

6 11. A staging plan illustrating the placement of all sets and
7 props and all equipment, including generators, portable
8 restrooms, and cameras (including booms and cranes);

9 and

10 12. Such additional information as the Administrator or
11 his/her designee may reasonably require.

12 c) The permit application shall be in a form the Administrator or
13 his/her designee may reasonably require. In lieu of the foregoing, the
14 applicant may submit the permit application on the form adopted and in
15 use by the Guam Film Office.

16 d) The Administrator or his/her designee may refer the application
17 to such appropriate government department, agency, autonomous
18 agency, office or instrumentality as are directly impacted by the
19 application and as he/she deems necessary from the nature of the
20 application for review, evaluation, investigation and recommendations
21 by the department, agency, autonomous agency, office or
22 instrumentality regarding approval or disapproval of the application.

23 e) The Administrator or his/her designee shall issue a permit under
24 this chapter if it is determined that the following criteria have been met:

25 1. The proposed use will not unreasonably interfere with
26 traffic or pedestrian movement, or unreasonably
27 interfere with or endanger the public peace or rights of

1 nearby residents to the quiet, peaceable enjoyment of
2 their property, or otherwise be detrimental to the public
3 peace, health, safety or general welfare;

4 2. The proposed use will not unduly impede, obstruct or
5 interfere with the operation of emergency vehicles or
6 equipment in or through the permit area, or adversely
7 affect the government's ability to perform municipal
8 functions or furnish government services in the vicinity
9 of the permitted area; and

10 3. The proposed use will not constitute a fire or safety
11 hazard and all proper safety precautions will be taken as
12 is reasonably necessary to protect the public peace,
13 health, safety or general welfare.

14 f) The Administrator or his/her designee shall deny the permit if the
15 conditions of this chapter and all applicable laws and regulations have
16 not been met or if the application contains incomplete or false
17 information.

18 g) The Administrator or his/her designee may immediately revoke
19 or suspend a permit which has been granted, if the conditions of this
20 chapter and all applicable laws and regulations are no longer being met,
21 if the information supplied by the applicant becomes, or is determined
22 to be, false or incomplete, or if any substantial change in circumstances
23 results in the proposed use becoming detrimental to the public peace,
24 health, safety or general welfare.

25 h) Reimbursement for Personnel. The production company shall
26 reimburse the Government of Guam for any personnel provided to the
27 company, (i.e. police, fire, traffic control, medical personnel) for the

1 purpose of assisting the production. Any cost shall be negotiated, and
2 approved, prior to shoot date. A fee for issuance of the permit shall be
3 set by the advisory committee.

4 **§50408. Indemnification of Government Against Liability.**

5 a) Prior and as a condition precedent to the granting of a permit
6 under this chapter, each applicant shall agree to indemnify, defend and
7 hold the Government of Guam, its authorized agents, officers,
8 representatives and employees harmless from and against any and all
9 losses, damages claims, causes of action, costs, liabilities, penalties,
10 judgments and expenses, including without limitation, defense costs
11 and reasonable legal fees, resulting from any and all claims or damage
12 of any nature, including any accident, loss or damage to persons or
13 property which the government may incur and which arise from or
14 relate to any activity conducted by the permittee or any of its agents,
15 employees, representatives, contractors or consultants in connection
16 with the rights granted in the permit or under this chapter. The form of
17 the indemnification agreement shall be as determined by the Attorney
18 General of Guam.

19 **§50409. Insurance and Bonding Required.**

20 (a) Liability Insurance. As a condition of issuance of a permit
21 hereunder, every permittee must procure and maintain in full force and
22 effect during the term of the permit a policy (or policies) of insurance
23 from an insurance company licensed to do business in Guam naming
24 the Government of Guam, its officers, employees and agents as
25 coinsured for protection against claims of third persons for any and all
26 liability of permittee with respect to its obligations and liabilities under
27 its permit and this chapter and its indemnities, including, but not limited

1 to, commercial general liability insurance on an “occurrence” basis
2 against claims for personal injury, including death, bodily injury or
3 property damage liability, and in an amount no less than one million
4 dollars (\$1,000,000.00), and which otherwise provides sufficient
5 coverage that the Administrator or his/her designee determines to be
6 necessary and adequate under the circumstances. The certificate shall
7 not be subject to cancellation or modification until after thirty days’
8 written notice to the Guam Film Office. Prior to issuance of any
9 permit, a copy of the certificate of insurance shall be provided to the
10 Insurance Commissioner. A copy of the certificate will remain on
11 permanent file.

12 (b) Worker’s Compensation Insurance. An applicant shall conform
13 to all applicable federal and local requirements for worker’s
14 compensation insurance for all persons operating under a permit.

15 (c) Hold Harmless Agreement. An applicant shall execute a hold
16 harmless agreement as provided by the Government of Guam and
17 incorporated within the permit issued under this chapter.

18 (d) Faithful Performance Bond. To ensure cleanup and restoration
19 of any public property involved in the filming, the permittee may be
20 required to post a refundable Faithful Performance Bond (amount to be
21 determined by Rules and Regulations), cash surety or other comparable
22 form of security guarantee at the time application is submitted. Upon
23 completion of filming, cleanup and restoration and a satisfactory
24 inspection of the site by Guam Film Office Administrator or his/her
25 designee, the bond may be returned to applicant.

26 **§50410. Effective Date.** This Article shall be effective 180 days after the
27 date of enactment.

1 **§50411. Severability.** *If any provision of this law or its application to any*
2 person or circumstances is found to be invalid or contrary to law, such
3 invalidity shall *not* affect other provisions or applications of this law,
4 which can be given effect without the invalid provisions or applications,
5 and to this end the provisions of this law are severable.”

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