



Office of the Governor of Guam

P.O. Box 2950 Hagåtña, Guam 96932
TEL: (671) 472-8931 • FAX: (671) 477-4826 • EMAIL: governor@mail.gov.gu

2008 DEC 23 PM 12: 23

Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

17 DEC 2008

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina' Bente Nuebi Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

Dear Speaker Won Pat:

Transmitted herewith is Bill No. 383 (LS), "AN ACT TO *AMEND* §1512.1 AND *ADD* A NEW §1512.2 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE FINANCING OF A NEW LANDFILL; TO *AMEND* §§51504, 51507, AND 51508 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO RECYCLING; TO PERMIT USE OF LOT 439-R1, SANTA RITA, AS A SANITARY LANDFILL; TO *AMEND* §2104 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE COMMISSION ON DECOLONIZATION; TO *AMEND* §75102 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE *CHAMORRO* LAND TRUST COMMISSION; AND TO *AMEND* SECTION 8 OF PUBLIC LAW 29-82, RELATIVE TO THE GUAM POWER AUTHORITY LOAN," which I have signed into law on November 25, 2008 as Public Law No. 29-116.

This would allow the Administration to try and get financing for the new landfill. However, I have concerns with the *Guatali* rider in Bill No. 383 which attempts to rezone the site without a public hearing and by adopting a retracement survey map. Its impact and legality is being reviewed by the Attorney General. Notwithstanding the rider, Bill No. 383 was signed into law in order to comply with the Consent Decree in the District Court of Guam,

Sinseru yan Magåhet,

FELIX P. CAMACHO
I Maga'låhen Guåhan
Governor of Guam

Attachment

29-08-0980

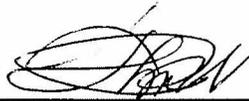
12/17/08

B 3

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

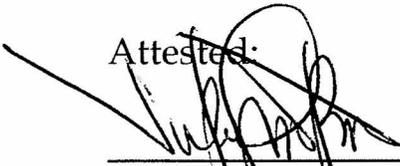
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that Bill No. 383 (LS), "AN ACT TO AMEND §1512.1 AND ADD A NEW §1512.2 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE FINANCING OF A NEW LANDFILL; TO AMEND §§51504, 51507, AND 51508 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO RECYCLING; TO PERMIT USE OF LOT 439-R1, SANTA RITA, AS A SANITARY LANDFILL; TO AMEND §2104 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE COMMISSION ON DECOLONIZATION; TO AMEND §75102 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE CHAMORRO LAND TRUST COMMISSION; AND TO AMEND SECTION 8 OF PUBLIC LAW 29-82, RELATIVE TO THE GUAM POWER AUTHORITY LOAN," was on the 21st day of November, 2008, duly and regularly passed.



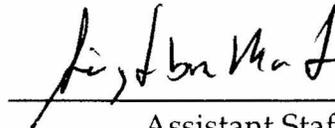
Judith T. Won Pat, Ed. D.
Speaker

Attested:



Tina Rose Muña Barnes
Senator and Secretary of the Legislature

This Act was received by I Maga'lahaen Guåhan this 21 day of NOV, 2008, at
11:53 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: 25 NOVEMBER 2008

Public Law No. 29-116

I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

Bill No. 383 (LS)

As amended in the Committee of
the Whole.

Introduced:

Committee on Calendar

by request of *I Maga'lahaen Guåhan*,
the Governor of Guam, in accordance
with the Organic Act of Guam.

AN ACT TO *AMEND* §1512.1 AND *ADD* A NEW §1512.2 TO TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO THE FINANCING OF A NEW LANDFILL; TO *AMEND* §§51504, 51507, AND 51508 OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO RECYCLING; TO PERMIT USE OF LOT 439-R1, SANTA RITA, AS A SANITARY LANDFILL; TO *AMEND* §2104 OF TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO THE COMMISSION ON DECOLONIZATION; TO *AMEND* §75102 OF TITLE 21, GUAM CODE ANNOTATED, RELATIVE TO THE *CHAMORRO* LAND TRUST COMMISSION; AND TO *AMEND* SECTION 8 OF PUBLIC LAW 29-82, RELATIVE TO THE GUAM POWER AUTHORITY LOAN.

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

2 **Section 1.** Subsection (i) of §1512.1 of Title 5, Guam Code Annotated, is
3 hereby *amended* to read:

4 “(i) **Use of Proceeds from the Sale of the Bonds.** The proceeds
5 from the sale of the bonds *shall* be used and are hereby appropriated to (i)
6 pay the General Fund expenses described below in this Subsection, (ii)
7 establish necessary reserves, (iii) pay expenses relating to the authorization,
8 sale and issuance of the bonds, including, *without limitation*, printing costs,

1 costs of reproducing documents, credit enhancement fees, underwriting,
2 legal, financial advisory and accounting fees and charges, fees paid to banks
3 *or* other financial institutions providing credit enhancement, costs of credit
4 ratings and other costs, charges and fees in connection with the issuance,
5 sale and delivery of the bonds, and (iv) fund capitalized interest on the bonds
6 for a period ending *not later than* thirty (30) months after their issuance.
7 The General Fund expenses authorized to be paid with the proceeds of the
8 bonds are as follows and *shall* be paid in the following order of priority:

9 (1) Cost of Living Adjustment (COLA) to discharge finally
10 and permanently the obligations of the government incurred pursuant
11 to the settlement agreement entered into between the Government of
12 Guam and the COLA Class as ordered by the Judgment in Rios v.
13 Camacho, Superior Court Case No. SP0206-93: \$92,000,000;

14 (2) 2006 and prior year individual and corporate tax refunds
15 including interest, *if any*, thereon and individual tax refunds *shall* be
16 paid first: \$112,000,000;

17 (3) Health Care Capital Improvement Projects at the Guam
18 Memorial Hospital: \$11,000,000;

19 (4) amounts past due as contributions to the Government of
20 Guam Retirement Fund, including interest, *if any*, thereon, on behalf
21 of the following:

22 (a) Guam Memorial Hospital: \$14,953,216

23 (b) Guam Public School System: \$16,867,640.

24 Total **\$246,820,856**

25 Payments made pursuant to this Subsection *shall* apply to any other
26 appropriations for the same items and *shall not* constitute double
27 appropriations.

1 Upon the issuance of the bonds authorized by this Section, *I*
2 *Maga'lahi* is authorized to reprogram to pay costs of a new landfill the
3 following amounts from the following priority categories, with the balance
4 of the respective priority category to be used for its original purpose prior to
5 the use of such bond proceeds for the landfill from any subsequent category:
6 (X) up to Seven Million Dollars (\$7,000,000) of the amount provided for
7 payment of the COLA, (Y) up to Seven Million Dollars (\$7,000,000) of the
8 amount provided for payment of tax refunds, and (Z) up to Six Million
9 Dollars (\$6,000,000) from the amount provided for Guam Memorial
10 Hospital; and *further provided*, that the proceeds of the first revenue *bonds*
11 *or* other obligations issued by the government to finance the costs of the new
12 landfill *shall* be used to reimburse the General Fund, whereupon such
13 reimbursement amounts *shall* be used to pay the General Fund expenses
14 listed in subparagraphs (1) through (3) of this Subsection in amounts *not*
15 *exceeding* the amounts reprogrammed."

16 **Section 2.** §1512.2 of Title 5, Guam Code Annotated, is hereby *added* to
17 read:

18 **"§1512.2. Authorization to Enter Into Loan for Landfill Costs.**

19 **(a) Authorization to Borrow.** *I Maga'lahaen Guahan* is authorized to
20 borrow on behalf of the government of Guam as provided in this Section from one
21 (1) *or* more banks *or* other financial institutions an amount *not to exceed* the
22 amount necessary to provide Twenty Million Dollars (\$20,000,000) for the
23 purpose of financing costs of a new landfill.

24 **(b) Terms and Conditions.** The terms and conditions of the loan *shall*
25 be as determined by *I Maga'lahaen Guahan* by the execution of a loan agreement;
26 provided, however, that the loan: (1) *shall* be subject to prepayment from the
27 proceeds of the first revenue bonds issued for the landfill, which proceeds may be

1 pledged for that purpose; (2) *shall not* be a general obligation of the government
2 of Guam; (3) *shall not* also be secured by a pledge of Section 30 revenues; (4)
3 *shall, if not* paid with the proceeds of revenue bonds, have annual principal
4 payments over the five (5) year period commencing one (1) year after its funding
5 date; (5) *shall* bear interest at such fixed *or* variable rate *or* rates as may be
6 negotiated by *I Maga'lahañ Guåhan* in the best interests of the government, such
7 interest rate *shall not exceed* eight percent (8%) and *shall* be computed on a three
8 hundred sixty-five (365) day calendar year upon the actual amount extended to the
9 government; (6) prepaid charges *shall not* be levied by the bank or entity for
10 opening a loan *or* line of credit; and (7) interest derived from the financial
11 agreement *shall be exempt* from taxation by the government of Guam.

12 **(c) Approval by Guam Economic Development Authority.** *No* loan
13 authorized by this Section *shall* be entered into until the Board of Directors of
14 GEDA has approved the loan by resolution.

15 **(d) Approval of Voters Not Required.** The loan *shall not* be subject to
16 the approval of the voters of Guam.

17 **(e) Approval of Loan.** *I Liheslaturan Guåhan*, pursuant to §50103(k),
18 Title 12 Guam Code Annotated, hereby approves a borrowing by the government
19 of Guam for the purposes and in the principal amount authorized by this Section
20 provided that the loan is entered into subject to the terms and conditions mandated
21 in this Section."

22 **Section 3.** §51504 of Chapter 51 of Division 2 of Title 10, Guam Code
23 Annotated is *amended* to read:

24 **"§51504. Administration of the Recycling Revolving Fund.** The
25 Administrator *shall* administer the Fund and *shall* encumber all amounts
26 available in the Fund as expeditiously as possible for the purposes of
27 assisting and encouraging recycling of recyclable materials. The

1 Administrator *shall* administer the Fund in accordance with this Article to
2 cause the following material/waste to be recycled *or* otherwise disposed
3 according to the following priority:

4 (a) First Priority - junk vehicles, tires, batteries, waste oil, white
5 goods/appliances,

6 (b) Second Priority - paper, cardboard, plastic, and glass,

7 (c) Third Priority - other recyclable materials as determined by the
8 Administrator.

9 (d) *Not more than* one (1) FTE employee at Guam Environmental
10 Protection Agency to administer this Article.

11 In Fiscal Year 2009 the Administrator *shall* expend monies from the
12 Recycling Revolving Fund to first pay any remaining unpaid debt including
13 any and all prior year obligations related to GSA 038-05 before any other
14 expenditures are made to ensure that all previous accounts have been
15 satisfied accordingly. The Administrator *shall* then pay current obligations
16 of the Department of Public Works arising from the ongoing Island-Wide
17 Collection and Off-Island Disposal of Abandoned Vehicles, White Goods,
18 Tires, and Batteries program pursuant to GSA Bid No. 038-05. Any
19 remaining unpaid debt *shall* be assumed by the Administrator.

20 The Administrator, *no later than* ten (10) days after the end of each
21 fiscal year, *shall* transfer from the Recycling Revolving Fund three percent
22 (3%) of the total amount collected during that fiscal year to fund one (1)
23 FTE employee at the Guam Environmental Protection Agency. The Fund
24 *shall* be subject to audits by the Public Auditor."

25 **Section 4.** §§51507 and 51508 of Chapter 51 of Division 2 of Title 10,
26 Guam Code Annotated are *amended* to read:

27 **"§51507. Authorization for the Mayors' Council of Guam to**

1 **Contract with Recycling Companies.** (a) The Mayors' Council of Guam,
2 in accordance with the applicable procurement laws and with the approval of
3 the Administrator, is authorized to enter into contracts with recycling
4 companies for the collection, recycling, disposal, and processing, *or* any
5 combination thereof, of automobiles, buses, heavy equipment, trucks,
6 batteries, tires, white goods, and other recyclable materials, and as required
7 by, *or* in accordance with, Articles 3 and 4 of Title 10 GCA, Chapter 51.

8 (b) At a minimum, the Mayors' Council *shall* require that all
9 offerors include, as part of their written offers, proof of current approved
10 permits, certification of compliance with Title 10, GCA, Chapter 51 from
11 GEPA and a plan to remove collected recyclable materials, including
12 abandoned vehicles, from Guam's waste stream. Contractors employed
13 under this Section *shall* perform all work under this Article in compliance
14 with all applicable laws, including those of this Chapter, and the applicable
15 Rules and Regulations of GEPA.

16 (c) The Guam Environmental Protection Agency *shall* promulgate
17 the necessary rules and regulations, in accordance with the Administrative
18 Adjudication Law, to properly implement this Article.

19 **§51508. Adjustment of Recycling Fees.** The Administrator *shall*
20 review the fee authorized by §51506, *supra*, every twenty-four (24) months
21 and is authorized to adjust the fee by *not more than* twenty-five percent
22 (25%) in accordance with the Administrative Adjudication Law."

23 **Section 5. (a) Legislative Intent.** *I Liheslaturan Guåhan* finds that the
24 legal authority permitting a landfill to be constructed at *Guatali* pursuant to Public
25 Law 23-95 in that area in central Guam, known as *Guatali*, located near the old
26 GORCO Oil site must be further clarified due to the parceling of that site as
27 *Guatali* Parcel A and *Guatali* Parcel B. The original survey of Lot 439-R1 was

1 done in 1968. Since then, the parcel has been divided as follows:

- 2 (1) Lot R14, Tract 2411 (Land Management Office of the Recorder
3 Instrument No. 630801) formerly known as the GORCO Oil
4 site now known as the Shell Refinery;
- 5 (2) Parcel A of Lot 439-R1 as described by Doc Nos. 90143 &
6 115867 with a total area of 809,374.74 square meters, *or* 80.937
7 hectares *or* two hundred (200) acres, now owned by the U.S.
8 Department of Interior, National Park Service (Land
9 Management Office of the Recorder Document Nos. 90143 and
10 115867) in 2001; and
- 11 (3) Parcel B of Lot 439-R1 with a total area of 352,872.12± square
12 meters, *or* 87.20 acres, now owned by the government of Guam
13 *Chamorro* Land Trust Commission (Land Management Office
14 of the Recorder Doc. No. 503740) in 2001.

15 (b) *I Liheslaturan Guåhan* hereby reaffirms its prior authorization and
16 permitted use of Parcel B of Lot No. 439-R1, Santa Rita, Guam, containing
17 an area of 352,872.12± square meters as shown on that map recorded at the
18 Office of the Recorder, Department of Land Management, government of
19 Guam on August 8, 2001, under Instrument No. 641990 as a municipal solid
20 waste landfill.

21 **Section 6.** Nothing in this Act *shall* be construed to be an acquiescence to
22 *or* the legislative approval of *I Maga'lahi's* *or* any other entity's selection of the
23 *Layon* site as the location for a Municipal Solid Waste Landfill.

24 **Section 7.** The following is *added* to 1 GCA §2104 (Commission on
25 Decolonization):

26 **"§2104.** The Commission *shall* meet regularly on the first Tuesday of
27 every month at 3 p.m. or more often as determined by the Chairperson of the

1 Commission. In the absence of both the Chairperson and the Vice
2 Chairperson from a meeting, a quorum of the members *shall* select an
3 Acting Chairperson to conduct the meeting until the Vice Chairperson *or*
4 Chairperson is in attendance. In the absence of a quorum, Minutes *shall*
5 be prepared by the Executive Director of the Commission indicating the lack
6 of a quorum, the date, and the members in attendance. The Executive
7 Director *shall* transmit to *I Maga'lahi* and *I Liheslatura* notice of three (3)
8 unexcused absences of any member."

9 **Section 8.** The following is *added* to 21 GCA §75102 (*Chamorro Land*
10 *Trust Commission*):

11 "§75102. The Commission *shall* meet regularly on the third
12 Thursday of every month at 1 p.m. *or* more often as determined by the
13 Chairperson of the Commission. At its first meeting the Commission *shall*
14 select a Vice Chairperson who *shall* conduct the meetings in the absence of
15 the Chairman. In the absence of both the Chairperson and the Vice-
16 Chairperson from a meeting, a quorum of the members *shall* select an
17 Acting Chairperson to conduct the meeting until the Vice-Chairperson *or*
18 Chairperson is in attendance. In the absence of a quorum, Minutes *shall* be
19 prepared indicating the lack of a quorum, the date, and the members in
20 attendance. Any appointed member of the Commission who fails to attend
21 three (3) consecutive regular meetings, without being excused pursuant to a
22 motion passed by the Commission, *shall* automatically be disqualified to
23 continue serving in his *or* her position and the appointing authority *shall*
24 then be required to appoint a replacement for said member. The Executive
25 Director *shall* transmit to *I Maga'lahi* and *I Liheslatura* notice of three (3)
26 unexcused absences of any member."

1 **Section 9.** A new Section 16 (c) is hereby *added* to Section 8 of P.L. 29-82
2 to read as follows:

3 "(c) Notwithstanding any substantive *or* procedural provision of
4 Chapter 6 of Title 5 of the Guam Code Annotated, the government of Guam hereby
5 waives immunity from any suit *or* action in contract on the Loan, but *does not*
6 waive sovereign immunity as to the personal liability of elected *or* appointed
7 officials and employees of the government of Guam."



Senator Rory J. Respicio

Majority Leader and Chairperson, Committee on Calendar & Agenda

I Mina'Bente Nuebi Na Libeslaturan Guåhan

Twenty-Ninth Guam Legislature

November 19, 2008

To: Judith T. Won Pat, Ed.D.
Speaker

RE: Request for Emergency Certification of Bill 383(LS)

I am requesting that Bill 383 (LS) be declared an emergency for the purpose of waiving the public hearing requirements.

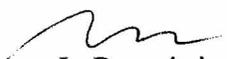
Bill 383 (LS), at the request of *I Maga'Lahen Guahan*, would authorize the government of Guam to secure the financing needed to meet a Consent Decree mandate to deposit \$20 million to a trustee designated by the Receiver, Gershman, Brickner & Bratton, Inc. by January 5, 2009.

The legislation submitted proposes the reprogramming of deficit financing bond funds and, as an alternative, authorizes the government to acquire a \$20 million loan should market conditions prevent bond financing.

To ensure that the timelines for meeting this consent decree mandate is met, I am requesting that you declare this bill an emergency for the purposes of waiving the requirements of a public hearing.

I look forward to your approval of my request and the swift passage of this legislation.

Si Yu'os Ma'ase'


Rory J. Respicio
Majority Leader



**OFFICE OF THE SPEAKER
29th GUAM LEGISLATURE
JUDITH T. WON PAT, Ed.D**

November 19, 2008

To: *I Mina'Bente Nuebi Na Liheslaturan Guahan*

RE: **Emergency Certification of Bill 383(LS)**

After careful evaluation for a request to waive the requirements for a public hearing on bill 383(LS);

Bill No. 383 (LS) By request of I Maga'lahaen Guahan in accordance with the Organic Act of Guam. - An act to amend 5 GCA § 1512.1, Relative to the authorization to issue bonds and bond anticipation notes for deficit financing.

I certify, pursuant to 2 GCA §2103, that an emergency condition exists and that the requirements for a public hearing on bill 383(LS) is accordingly waived.

Senseramente,

Judith T. Won Pat, Ed.D.
Speaker

cc: Clerk of the Legislature