

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

2 **Section 1. Legislative Findings and Intent.** Public Law 26-52:4 granted the
3 Department of Revenue and Taxation and the Cockpit License Board the authority to
4 promulgate necessary rules and regulations to create a comprehensive regulatory
5 scheme to regulate all gaming activities on Guam. Pursuant to that authority, on
6 January 3, 2003 the Department of Revenue and Taxation filed the gaming control
7 regulations with the Legislative Secretary.

8 These regulations called for the establishment of a Gaming Control Division,
9 which would be responsible for the administration of the regulations. It also created a
10 Gaming Control Commission and tasked it with the development of license fees and
11 tax rates to be assessed to the various forms of allowable gaming. The license fees and
12 taxes to be collected would be the source of funding for the administration of the Act,
13 and all funds in excess of the operational needs would be divided between the
14 Department of Education's Interscholastic Sports Program, the Guam National
15 Olympic Committee, and the Northern and Southern Sports Complexes. However, the
16 Gaming Control Commission has not had any members appointed to it, and the
17 license fees and tax rates have yet to be established.

18 It is the intent of *I Liheslaturan Guåhan* to substitute the language contained in
19 the original Bill No. 19-32(COR) by adding language to Chapter 5 of Title 11, Guam
20 Code Annotated, relative to gaming. By doing so, *I Liheslatura* intends to place in
21 statute the policy of regulating gaming activities allowed by law, collecting fees and
22 taxes that would be due from duly licensed operators, and making funds available for
23 improvements to Guam's sporting facilities.

24 **Section 2.** New §§ 5201 to 5205, relative to gaming, are hereby *added* to Title
25 11, Guam Code Annotated, to read as follows:

26 **"§ 5201. Limited Gaming Tax.**

1 (a) There is hereby imposed a limited gaming tax on the gross receipts
2 from limited gaming activities allowed by this Act in Guam. The tax rate on
3 limited gaming activities *shall* be four percent.

4 (b) (1) The Department *shall* collect the amount of limited gaming
5 tax on the gross receipts from limited gaming activities determined pursuant to
6 Subsection (a) of this Section from any limited gaming licensee owing the tax,
7 and *shall* have all of the powers, rights, and duties provided for by law to carry
8 out such collection.

9 (2) All moneys collected pursuant to this Section *shall* be
10 deposited in the Fund created by § 5204 of this Act.

11 **§ 5202. Violations of Taxation Provisions - Penalties.**

12 (a) Any person who willfully:

13 (1) makes any false or fraudulent return in attempting to defeat
14 or evade the tax imposed by this Act, commits a third degree felony and
15 *shall* be punished as provided for by law;

16 (2) fails to pay tax due under this Act within thirty days after the
17 date the tax becomes due, commits a misdemeanor and *shall* be punished
18 as provided for by law;

19 (3) fails to file a return required by this Act within thirty days
20 after the date the return is due, commits a misdemeanor and *shall* be
21 punished as provided for by law;

22 (4) violates either Subsection (2) or (3) of this Section two or
23 more times in any twelve-month period, commits a third degree felony
24 and *shall* be punished as provided for by law; and

25 (5) aids or assists in, or procures, counsels, or advises the
26 preparation or presentation under, or in connection with any matter

1 arising under any title administered by the Department, or a return,
2 affidavit, claim, or other document which is fraudulent or is false as to
3 any material fact, whether or not such falsity or fraud is with the
4 knowledge or consent of the person authorized or required to present
5 such return, affidavit, claim, or document, commits a third degree felony
6 and *shall* be punished as provided for by law.

7 (b) For purposes of this Section, "person" includes corporate officers
8 having control or supervision of, or responsibility for, completing tax returns or
9 making payments pursuant to this Act.

10 **§ 5203. Returns and Reports - Failure to File - Penalties.**

11 (a) (1) Any person who fails to file a return or report required by
12 this Act for limited gaming activities, which return or report includes taxable
13 limited gaming transactions, on or before the date the return or report is due, as
14 prescribed in § 5202(a)(3) of this Act, is subject to the payment of an additional
15 amount assessed as a penalty equal to fifteen percent of the tax, or One
16 Thousand Dollars (\$1,000), whichever is greater; *except* that for good cause
17 shown, the Director may reduce or eliminate such penalty.

18 (2) Any person, subject to taxation under this Chapter for
19 limited gaming activities, who fails to pay the tax within the time
20 prescribed, is subject to an interest charge of two percent per month or
21 portion thereof for the period of time during which the payment is late, or
22 One Thousand Dollars (\$1,000), whichever is greater.

23 (3) (A) Penalty and interest are considered the same as a tax
24 for the purposes of collection and enforcement, including liens, distraint
25 warrants, and criminal violations.

1 (B) Any payment received for taxes, penalties, or interest
2 is applied, first to the tax, beginning with the oldest delinquency,
3 then to interest, and then to penalty.

4 (4) The Director may, upon application of the taxpayer,
5 establish a maximum interest rate of twenty-four percent upon delinquent
6 taxes if the Director determines that the delinquent payment was caused
7 by a mistake of law and not by a willful intent to evade the tax.

8 (b) The procedures for collection of any taxes due under this Act and
9 the authority of the Department to collect such taxes, *shall* be the same as those
10 provided for the collection of business privilege taxes.

11 **§ 5204. Limited Gaming Fund.**

12 (a) There is hereby created, separate and apart from other funds of the
13 government of Guam, a fund to be known as the Limited Gaming Fund. All
14 license fees, taxes and penalties collected under this Act *shall* be deposited in
15 the Fund. The Fund *shall not* be commingled with the General Fund, except as
16 indicated herein, *shall* be kept in a separate bank account, and *shall not* be used
17 as a pledge of security or as collateral for government loans. The Director of
18 Administration *shall* make an itemized quarterly report to *I Maga'laha*
19 *Guåhan* (the Governor of Guam), and *I Liheslaturan Guåhan*, of the condition
20 of, and a detailed description of all financial activity within, the Fund. The
21 Director of Administration *shall* further make an itemized annual report, which
22 *shall* be made available to the general public.

23 (b) The Fund *shall* be used first for the purpose of the administration
24 of this Act, and as otherwise stated herein. *No more than* five percent of the
25 Fund balance may be expended for this purpose, and funds *shall not* be

1 expended for personnel costs. Said Fund *shall* be examined and reported upon
2 by the Director of Administration as required by law.

3 (c) No claim for the payment of any expense incurred by the
4 Department or any other agency in the administration of this Act, shall be made
5 unless it is against the Fund. No other moneys of the government of Guam shall
6 be used or obligated to pay the expenses of the Department.

7 (d) Moneys remaining in the Fund, after maintaining the stated
8 reserves for administrative expenses of this Act, *shall* be appropriated in the
9 following manner in each fiscal year:

10 (1) *up to* one third (1/3) of the available balance to the Mayors
11 Council of Guam for the repair and construction of village recreational
12 facilities, including community centers;

13 (2) *up to* one third (1/3) of the available balance to the
14 Department of Parks and Recreation for the repair and construction of its
15 facilities; and

16 (3) *up to* one third (1/3) of the available balance to the
17 Department of Education for the repair and construction of its sports
18 facilities.

19 (e) The Mayors Council of Guam, the Department of Parks and
20 Recreation, and the Department of Education *shall* present memoranda of
21 request to the Department of Administration detailing the use of funds to be
22 allocated to each entity. Funds *shall not* be expended for personnel costs. The
23 Department of Administration *shall* release funds to each entity on the first
24 Monday of each fiscal quarter.

25 **§ 5205. Limited Gaming Activities – Authorized and**
26 **Unauthorized.**

1 (a) The following are the only limited gaming activities authorized in
2 Guam under this Act:

3 (1) Bingo or lottery that is conducted by a tax exempt non-profit
4 organization as authorized in Title 9, Guam Code Annotated, § 64.70(b);

5 (2) Cockfighting that is conducted at a licensed cockpit, and that
6 all wagers are present at the cockpit, as authorized in Title 9, Guam Code
7 Annotated, § 64.40; and

8 (3) Carnival or Liberation Day gaming, as authorized in §
9 64.62; and

10 (4) All other limited gaming activities as authorized pursuant to
11 statute.

12 (b) Each non-profit organization choosing to operate a gaming activity
13 *shall* be open to an auditing of funds by the Office of Public Accountability to
14 ensure that funding is being spent in the spirit of the non-profit's charter and the
15 public benefit.”

16 **Section 3. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
17 that the Guam Memorial Hospital Authority is seriously underfunded, resulting in
18 consistent, chronic shortages in all operational areas that jeopardize the ability of
19 Guam Memorial Hospital to adequately fulfill its mission.

20 The full scope and negative impact of the Guam Memorial Hospital Authority's
21 outstanding debts, in excess of Twenty-three Million Dollars (\$23,000,000), came to
22 light during the *Joint Status Hearing* conducted by the Committee on Health &
23 Human Services and the Committee on Appropriations, on April 18, 2012. *I*
24 *Liheslaturan Guåhan* further finds that in 2012, the federally approved discount
25 provider for medical supplies intercepted approximately Five Hundred Thousand
26 Dollars (\$500,000) (taken from Medicare reimbursements through the U.S. Treasury),