

**12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT**

**CHAPTER 70
HOTEL DEVELOPMENT**

- § 70101. Legislative Finding.
- § 70102. GEDA to Promote Hotel Development.
- § 70103. Same: Powers and Responsibilities.
- § 70104. Same: Definitions.
- § 70105. Business Privilege and Use Tax Exemptions.
- § 70106. Consideration to existing hotels.
- § 70107. [untitled]
- § 70108. 'Sunset' Provision.
- § 70109. [untitled]
- § 70110. Title.
- § 70111. Southern Economic Incentive Region.
- § 70112. Tax Rebates, Abatement and Exemption Benefits for Home Contractors or Developers.
- § 70113. Amendment to Rules.
- § 70114. Severability.

§ 70101. Legislative Findings.

Additional hotel accommodations and tourist facilities and services are essential to the further development of Guam's tourist industry, now the island's principal industry, in view of the downsizing of the territory's military facilities. Additional hotel accommodations and tourist facilities will create jobs to take the place of those lost in such military base closures. The provision of such additional accommodations and facilities is declared to be a public purpose. In addition, substantial funds are needed to "jump start" the provision of affordable housing for the people of Guam, and the Legislature finds that such funds might be obtainable from hotel and tourist facility developers in exchange for enlarged tax benefits. Accordingly, the enlargement of tax benefits to those developers which make funds available for affordable housing is declared to be a public purpose.

SOURCE: GC §53609, as added by P.L. 16-87. Amended by P.L. 23-135:1.

§ 70102. GEDA to Promote Additional Hotels and Tourist Facilities.

The Corporation shall promote the construction of new hotels, the expansion of existing hotels, and the construction of tourist facilities for

12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT

the adequate accommodation, amusement of, and service to tourists and other visitors to Guam.

SOURCE: GC §53609.1, as added by P.L. 16-87. Amended by P.L.23-135:2.

§ 70103. Same: Powers and Responsibilities.

The Corporation is authorized and empowered to do all things necessary or appropriate to carry out the purposes of this Article. It is expressly authorized:

(a) Information on tourism. To work with the Guam Visitors Bureau and other concerned agencies to collect and disseminate information concerning Guam's tourist industry and the financial incentives offered by the government of Guam for the development, operation and ownership of hotels and tourist facilities in Guam;

(b) Coordination with government agencies. To assist persons interested in building or expanding hotels or tourist facilities in Guam in obtaining information from and coordinating with government of Guam agencies, public corporations and Federal agencies represented in Guam;

(c) Information on financing. To assist those persons interested in building or expanding hotels or tourist facilities in Guam in obtaining financing by maintaining and disseminating information regarding financing available through private and public sources; and

(d) Feasibility studies. To provide administrative and financial assistance, on such terms and upon such conditions as the Board may determine, with respect to the preparation of feasibility studies relating to specific proposals for the development or expansion of hotels or tourist facilities in Guam.

SOURCE: GC §53609.2, as added by P.L. 16-87. Amended by P.L. 23-135:3.

§ 70104. Same: Definitions.

For purposes of this Article and unless the context otherwise requires, *Hotel* means a building or buildings containing not less than two hundred (200) guest rooms held out to the public as a place where all transient persons, including but not limited to tourists, who come will be accommodated and entertained as guests for compensation whose facilities are open to the public as a whole; and *tourist facility* means a building or buildings whose construction cost is not less than Five

12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT

Million Dollars (\$5,000,000) offering for compensation, sustenance, entertainment, or amusement of tourists, other transients, and other members of the public, the activities of which facility the Board finds beneficial to the development of Guam's tourist industry.

SOURCE: GC §53609.3, as added by P.L. 16-87. Amended by P.L. 23-135:4.

§ 70105. Business Privilege and Use Tax Exemptions.

(a) Business Privilege Tax. The proceeds from any contract for building materials or supplies, or for labor or supervision used in the construction of any new hotel or tourist facility in Guam, or for the expansion of any existing hotel, or for the development of affordable housing, shall be exempt from the tax imposed under Article 2 of the Business Privilege Tax Law; *provided*, that: (a) the person providing the materials, supplies, labor or supervision has received a certificate of exemption from the Corporation; and (b) the person claims the exemption within the following period: within one (1) year of the date that such materials, supplies, labor or supervision are furnished. The Corporation shall adopt reasonable rules and regulations in accordance with the Administrative Adjudication Law for the granting of certificates of exemption in order to ensure that certificates are issued only with respect to materials, supplies, labor or supervision furnished subsequent to the effective date of this Article and for the construction or expansion of a qualifying hotel or tourist facility, or development of affordable housing as defined by the Authority. In addition, the Corporation shall require that the Beneficiary of a certificate of exemption comply with the same requirements of a Beneficiary of a Qualifying Certificate ('QC') as set out in Title 12 Guam Code Annotated §§58116 through 58119.

(b) Use Tax. The owner of a hotel or tourist facility constructed under a contract, the proceeds from which have been exempted under this Section from the tax imposed under Article 2 of the Business Privilege Tax law, shall be exempted from the Guam Use Tax Law, with respect to the property used to construct, furnish and equip the hotel or tourist facility, for a similar period.

(c) Offset of Taxes if Paid. In the event the contractor, supplier or owner, otherwise eligible for the tax exemptions authorized by this Section, has paid the taxes because the Corporation's rules and regulations had not been adopted and promulgated at the times the taxes were required to be paid, such contractor, or supplier or owner shall be entitled to an offset of such taxes against future taxes, without interest,

12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT

on presentation to the Director of Revenue and Taxation of a certificate of exemption issued by the Corporation to such contractor, supplier or owner.

SOURCE: GC §53609.4, as added by P.L. 16-87. Amended by P.L., 23-135:5. Amended by P.L. 24-266:1.

§ 70106. Consideration to Existing Hotels.

The Board shall exercise its powers with respect to this Article so as to promote the construction of new hotels, the expansion of existing hotels, and the construction of tourist facilities in an orderly manner and with due regard being given to the profitability of existing hotels and tourist facilities.

SOURCE: GC §53609.5, as added by P.L. 16-87. Amended by P.L. 23-135:6.

§ 70107.

(a) Tax Rebates on Certain Rental Income. A qualifying certificate granting a rebate of up to fifty percent (50%) of all income tax paid to the government of Guam by a Beneficiary on income derived from the lease of land, buildings, machinery or equipment to a Beneficiary of a qualifying certificate issued for affordable housing or for a hotel or tourist facility covered by the provisions of this Chapter may be issued for a period not to exceed five (5) consecutive years from the effective date of a qualifying certificate therefor, and a rebate of up to twenty-five percent (25%) of such income tax for a period not to exceed the next five (5) consecutive years; *provided*, that an application for such rebate is made within the effective period(s) of this Article, as set out in § 70108, *infra*.”

(b) Income Tax Rebate on Sales to Developers. A rebate of up to fifty percent (50%) on all taxes paid to the government of Guam by a Beneficiary on income derived from the sale of land or other real property to a developer of a hotel, of a tourist facility, or of affordable housing covered by the provisions of this Chapter may be issued; *provided*, that an application of such rebate is made within the effective period(s) of this Chapter, as set out in § 70108, *infra*.

SOURCE: GC §53609.6, as added by P.L. 16-87. Repealed by P.L. 22-85:2 (3/3/94) and remaining funds reversed to the Tourist Attraction Fund by the same §2. Amended by P.L. 23-135:7. Amended by P.L. 24-266:2.

§ 70108. ‘Sunset’ Provision.

12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT

This Article shall take effect on its approval by *I Maga'lahaen Guahan* and shall remain in effect until January 1, 2002, at the expiration of which period this Article shall automatically be deemed repealed; *provided*, however, that the Board, at its discretion, may extend the effectiveness of this Article to January 1, 2004 by adopting a resolution to such effect prior to January 1, 2002 and *provided*, further, that any qualifying certificate issued for a period expiring after January 1, 2002, or after January 1, 2004, if the effective period has been extended, shall remain in full force and effect until its particular term expires or it is canceled on other grounds.

The tax rebate on sales to developers authorized by § 70107 of this Article is available to the Beneficiary for any tax year, any part of which falls before January 1, 2003, or before January 1, 2005, if the Article's effective period has been extended.

SOURCE: GC §53609.7, as added by P.L. 16-87. Amended by P.L. 23-135:8. Amended by P.L. 24-266:3.

§ 70109.

(a) Increase in Benefits to Developers Who Make Funds Available for Affordable Housing. In order to initiate the immediate construction of affordable housing on Guam, the Board is authorized to recommend to *I Maga'lahaen Guahan* and *I Maga'lahaen Guahan* is authorized to issue to each of those developers of hotels or tourist facilities which qualify a qualifying certificate with a rebate of up to one hundred percent (100%) of all income tax paid to the government of Guam by the Beneficiary on income received from the activities of the hotel or tourist facility identified in the qualifying certificate, which rebate may be authorized for a period not to exceed twenty (20) consecutive years from the effective date of the qualifying certificate.

(b) Cash Loans by Applicants for Enlarged Benefits. In order to qualify for the increased percentage of rebate of income tax as authorized by this § 70109, an applicant therefor must agree to loan to the affordable housing fund ("Housing Fund") to be established by the Corporation the sum of Five Million Dollars (\$5,000,000) for a period of up to five (5) years. The applicant shall make such loan to the Housing Fund contemporaneously with the issuance of the qualifying certificate by *I Maga'lahaen Guahan*. Such loan shall be repaid to the applicant without interest, as provided in subparagraph (c), *infra*. Until such loan is repaid

12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT

to the Beneficiary, any interest accrued thereon while the loan is in the Housing Fund is the property of the Housing Fund.

(c) Housing Fund. The Corporation shall establish on its books, separate and apart from its other funds, the Housing Fund described in Subparagraph (b), *supra*. Utilizing only the interest on the loans in the Housing Fund, the Corporation, working in cooperation with the Guam Housing Corporation ('GHC'), shall design and develop the necessary supporting infrastructure for affordable housing projects, such as, but not limited to, roads, waterlines, sewer lines, power and telephone lines and other utilities. Each loan in the Housing Fund shall be repaid in full without interest to the Beneficiary no later than five (5) years from the date the loan was deposited in the Housing Fund.

(d) Applicability of Other Provisions of the QC Law. The provisions of Chapter 58 of Title 12 of the Guam Code Annotated, respecting qualifying certificates, shall apply to the qualifying certificates issued under this § 70109, *except* with respect to the maximum percentage of rebate of income tax permitted. A Beneficiary may be a Subchapter "S" Corporation, a trust, partnership or limited liability company, and it must otherwise comply with the requirements of that Article with respect to the filing of applications and the publication of notice. A hotel or tourist facility developer which would qualify for assistance under the other provisions of Chapter 70 of this Title can, with respect to a rebate of its income tax, either agree to loan Five Million Dollars (\$5,000,000) and obtain a maximum of one hundred percent (100%) rebate for a maximum of twenty (20) years, or not make any such loan, and receive a maximum rebate of seventy-five percent (75%) for a maximum period of twenty (20) years.

(e) Affordable Housing Program. The Corporation shall, to the extent feasible, achieve economies of scale in its development of infrastructure for affordable housing, by utilizing as few contractors, architects and engineers as possible, and by utilizing modern construction techniques so as both to speed the construction of such infrastructure and lower its cost.

SOURCE: GC §53609.8, as added by P.L. 16-87.Amended by P.L. 23-135:9. Amended by P.L. 24-266:4.

§ 70110. Title.

12 GCA AUTONOMOUS AGENCIES
CH. 70 HOTEL DEVELOPMENT

This Act [Sections 70110-70114] may be cited or referred to as '*The Southern Economic Incentive Construction Act of 2000*'.

SOURCE: Sections 70110 - 70114 (as renumbered by Compiler) have been added by P.L. 25-124:2-6.

§ 70111. Southern Economic Incentive Region.

For purposes of this Act, the following villages and municipalities shall constitute the Southern Economic Incentive Region: Piti, Santa Rita, Agat, Umatac, Merizo, Inarajan, Talofofo and Yona.

§ 70112. Tax Rebates, Abatement and Exemption Benefits for Home Contractors or Developers.

In order to participate in the tax rebates, abatement and exemption benefits for home contractors or developers (Benefits Program) established in 12 GCA §§ 70107 and 70109, the respective home contractor or developer shall apply to the Guam Economic Development Authority ('GEDA') *prior to* the commencement of construction of affordable housing or renovation thereof of existing structure.

§ 70113. Amendment to Rules.

To effectuate the intent of this Act, the Guam Economic Development Authority ('GEDA') together with the Guam Housing Corporation ('GHC') shall, within thirty (30) days upon enactment, amend the existing rules and shall submit the same to *I Liheslaturan Guåhan* for review and approval.

§ 70114. 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 applications, and to this end the provisions of this Law are severable.
