GUAM
ECONOMIC DEVELOPMENT
& COMMERCE
AUTHORITY

Qualifying Certificate Program

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I. Qualifying Certificate Rules and Regulations

GUAM ECONOMIC DEVELOPMENT AUTHORITY
RULES AND REGULATIONS

PART I
ISSUANCE OF QUALIFYING CERTIFICATES

Section 1. Purpose

The purpose of this part of the rules and regulations is to establish pursuant to §2403. Chapter 2. Title 12. Guam Code Annotated. standards and criteria for the Guam Economic Development Authority to recommend to the Governor of Guam that Qualifying Certificates be issued granting tax benefits.

Section 2. Definitions

For the purpose of these rules and regulations:

a. "Administrator" shall mean the Administrator of the Guam Economic Development Authority as prescribed by §2106. Chapter 2. 12 GCA.

b. "Agriculture" is the enterprise involved in the production, harvesting, marketing or processing of agricultural products by a person who cultivates, plans, propagates or nurtures agriculture products. "Agriculture Products" for the purpose of Qualifying Certificates includes agricultural, aquacultural and horticultural products.

c. "Authority" shall mean the Guam Economic Development Authority as prescribed by §2101. Chapter 2. 12 GCA.

d. "Beneficiary" shall mean the person to whom a Qualifying Certificate is issued and who benefits from the tax rebates or abatements.

e. "Board" shall mean the Board of Directors of the Guam Economic Development Authority as prescribed by §2105. Chapter 2. 12 GCA.

f. "Bona Fide Resident" means citizens of the United States or permanent resident aliens who have been residing continuously in Guam for at least five (5) years.

g. "Capital Investment" means the investment of money or property into the Beneficiary's approved business or development within the Territory of Guam and shall include, but not be limited to; all the cost and expense to the Beneficiary of the acquisition and improvement of land within the Territory, the maintenance and repair of improvement, finance charges, interest, furniture, fixtures, salaries, machinery, equipment, inventory, supplies and the

other expenses incurred in the operation of the development or business which is the subject of a Qualifying Certificate.

h. "Commerce" means the exchange or buying and selling of goods or services.

i. "Commercial Fishing" is an enterprise whereby a person engages in fishing as an occupation or business for profit.

j. "Export Trading" shall mean a person which provides services which assist or facilitate in the export of goods manufactured within the Territory of Guam or elsewhere within the United States and also meets the definition set forth a Government Code sec. 19500.21.

k. "Home Manufacturing" means the process by which products are produced by persons in their homes for profit.

l. "Hotel Business Class" is an establishment that provides lodging of at least one hundred (100) rooms and various other public services and includes the following minimum requirements:

1. Private bathroom for each room;
2. Adequate air conditioning for each room;
3. Dining room/restaurant facility(s) with a minimum seating capacity for one hundred (100) persons;
4. Multi-use facility(s) to serve as a banquet/meeting room or rooms with an aggregate minimum seating capacity for 100 persons;
5. Business center which provides for facsimile, copying, long distance telephone and secretarial services, and other related amenities; and
6. Lodging based on daily or weekly rates.

m. "Hotel, First Class" is an establishment that provides transient lodging of at least one hundred (100) rooms, entertainment, recreational facilities and various other public services and includes the following minimum requirements:

1. Private bathroom for each room;
2. Adequate air conditioning for each room;
3. Dining room/restaurant facility(s) with a minimum capacity for one hundred (100) persons;
4. Multi-use facility(s) to serve as a banquet/meeting rooms or convention hall with an aggregate minimum seating capacity for two hundred fifty (250) persons;
5. Related shop facilities;
6. Various recreational facilities such as swimming pools, tennis courts, etc.;

7. Lodging based on daily or weekly rates; and
8. The quality of its various facilities shall, in the Boards discretion, be equal to or better than the "Four Star" level on the Diamond Hotel rating system published by the Automobile Association of America (Triple A).

n. "Hotel/Motel" is an establishment that provides transient lodging or at least twenty-five (25) rooms but no more than one hundred (100) rooms, and parking in which the rooms are usually accessible from an outdoor parking area and includes the following minimum requirements:

1. Private bathroom for each room;
2. Adequate air conditioning for each room;
3. Dining room/restaurant facilities with a minimum seating capacity for twenty-five (25) persons;
4. A recreational facility of some type such as a swimming pool or mini golf course, etc.; and
5. Lodging based on daily or weekly rates.

o. "Lease" shall mean a contract for the use of land or personal property for a specified time or other transfer which results in a change in the operational control of the business or development which is the subject of a Qualifying Certificate.

p. "Local Business" means businesses which are Sixty Percent (60%) owned by individuals which are either permanent resident aliens who are residents of Guam or by citizens of the United States.

q. "Management Personnel" means those persons who are directly responsible for making and implementing the decisions within the organization which tend to coordinate the activities of the organization towards accomplishing its objectives and include Top Management (executives), Middle Management (managers) and First-Level Management (first level supervisors). It includes those individuals who regularly exercise discretionary authority, regularly direct two (2) or more other employees and have the authority to hire or dismiss employees, or whose suggestions are given substantial weight in such decisions, including promotions.

r. "Manufacturing" means the process by which products are produced or substantially transformed.

s. "Mariculture" means the cultivation of marine organisms by exploiting their natural environment.

t. "Person" shall mean one or more individuals, corporations, partnerships, joint ventures or trusts.

u. "Possession Corporation" is a domestic corporation who elects the application of Section 936 of the U.S. Tax Code or during which Sections 931 – or 957 © of the U.S. Tax Code are applied to such corporation.

v. "Qualifying Certificate" is an instrument valid upon its execution by the Governor of Guam entitling a person to certain tax benefits for limited period of time given to encourage and to improve the economy of Guam as defined by 12 GCA §58101.

Section 3. Eligibility

The Board shall not recommend the issuance of a Qualifying Certificate, except as follows:

a. To persons engaged, or about to engage in one or more of those activities set forth at 12 GCA §2403 (2); and

b. The Board finds that the activities of the Beneficiary will result in one or more of the following within the Territory:

1. The creation of new employment;
2. The replacement of imports;
3. The reduction of consumer prices; or
4. The creation of facilities or services vitality by the people of the Territory of Guam; and

c. The Board finds that the activities of the Beneficiary will improve the economy or the Quality of life for the people of the Territory of Guam; and

d. The Beneficiary is licensed to do business within the Territory of Guam. If the Beneficiary is a corporation it was either formed under the laws of Guam, has registered as a foreign corporation, or is possessions corporation. If the Beneficiary is a trust or a partnership it must be registered with the Department of Revenue and Taxation and any general partners or trustees must be bona fide residents of Guam. If the Beneficiary is an individual, he or she must be a bona fide residents of Guam; and

e. Stockholder applicants for rebates of corporate income tax on dividends paid by the corporation must be bona fide residents of Guam, or corporations formed under the laws of Guam or foreign corporations; and

f. Leasehold applicants for abatement of Gross Receipts Taxes must be bona fide residents of Guam.

Section 4. Eligible Export Trading Companies

In order for an export trading company to be eligible to receive a Qualifying Certificate it must satisfy the requirements of Government Code Section 19500.21 and maintain its headquarters within the Territory.

Section 5. Hotel Eligibility

No person shall be eligible to receive a Qualifying Certificate for the development or operation of a hotel, whether motel, first class or business, unless:

a. The hotel meets the requirement of Section 2(1), (m) or (n) of these rules; and
b. The proposed Beneficiary establishes to the Board's satisfaction that it is reputable and financially able to develop property within the territory of Guam; and
c. The proposed Beneficiary establishes to the Board's satisfaction that it has acquired a valid interest in suitable real property within The Territory of Guam; and
d. The proposed Beneficiary sets forth in its application its commitment to make, and a detailed plan for, the public offering of up to Ten Percent (10%) of its voting stock.

Section 6. Application for Qualifying Certificates

a. Each person applying for a Qualifying Certificate shall complete and submit to the Administrator an application in such form and with such supporting documents as the Administrator shall from time to time prescribe. In any event, the application shall include the following:

1. The identification of the qualifying activity of the Beneficiary as required by 12 GCA §2403 (1);
2. A detailed summary and explanation of how and why the activities of the Beneficiary will result in the benefits required by Section a (b) and (c) of these Rules.
3. The verification of eligibility required by Section 4 of these rules, if applicable;
4. The verification of eligibility and compliance with the requirements of Section 5 of these Rules, if applicable;
5. The verification of the Beneficiary's commitment and ability to make the Minimum capital investment required by Section 9 of these Rules.
6. Information and documentation sufficient to enable the Board to make each of the specifics findings required by Section 10 of these rules; and

7. Such other information as required by the Administrator of the Board.

b. Prior to submission to the Board, the Administrator shall review each application and shall have the authority to reject any application which does not comply with the requirements of these Rules.

Section 7. Notice of Application and Issuance

a. No later than seven (7) days following submission of an application the applicant shall cause to be published in a Guam newspaper or general circulation at the applicant's expense, a brief resume of the application, as approved by the Authority.

b. Not less than five (5) days prior to the schedules hearing date, a notice of public hearing shall be published by the applicant in a Guam newspaper of general circulation, at the applicant's expense.

c. A notice of the public hearing of the Board's recommendation to the Governor of Guam for the issuance of a qualifying certificate, shall be published at the applicant's expense in a Guam newspaper of general circulation, thirty (30) days prior to the scheduled hearing date and prior to the submission of the recommendation to the Governor.

Section 8. Requirement To Be Included In Every Qualifying Certificate

Every Qualifying Certificate approved by the Authority shall include the following requirements and conditions:

a. The Beneficiary shall be required to furnish written ***monthly reports beginning thirty (30) days*** after the date of issuance of the Qualifying Certificate, said reports to include but not limited to financial data (balance sheet and income statement), employment data, and payroll data.

b. The Beneficiary shall be required to establish a profit sharing/pension program, health and life insurance programs, and other similar benefits for its employees in a manner and as prescribed by the Board, to commence on the effective date of the Qualifying Certificate.

c. At all times at least Seventy-five Percent (75%) of all employment categories of a Beneficiary's work force shall either be United States citizens or permanent residents of the

United States and shall be paid at prevailing wage rates; provided, however, that for good cause the Authority may grant temporary exemptions for limited periods. The Authority shall from time to time determine the various management and non-management employment categories of a Beneficiary.

d. The Beneficiary shall be responsible for maintaining operational control of the business or development which is the subject of the Qualifying Certificate. It may utilize the services of a management company to assist in the operation of the business or development but in no case may the business or development be leased without the Authorities express written approval. Any lease shall be considered as a transfer of the Qualifying Certificate and benefits by the applicant which requires written permission of the Authority and approval by the Governor of Guam.

e. In no event shall a substantial portion of the property or assets of a Beneficiary's development or business be transferred without the Authority's written consent.

f. In no event shall there be a change in the identity of the stockholders which control a corporate Beneficiary or in the stockholders of any parent corporate stockholder, without the Authority's written consent.

g. The Beneficiary shall establish such management training programs as are necessary to encourage its employees to improve their upward mobility within the business or development. The Beneficiary shall encourage its employees to participate in formal education at institutions of higher learning in order to attain management level positions within the establishment. These programs shall be incorporated into the annual training report required and approved by the Authority.

h. The Beneficiary of any Qualifying Certificate for a hotel shall at all times make all amenities such as restaurants, golf courses, swimming pools, and other sport and entertainment facilities open and available to the public. The Beneficiary shall maintain such reasonable reservations and pricing policies sot that the local population of the Territory may enjoy the use of all amenities. Similarly, the Beneficiary shall at all times allow reasonable public access to any beaches and water adjacent to the facility.

i. In its procurement of the goods and services necessary to operate and construct the business or development, the Beneficiary shall at all times give preference to those goods and services which are available from local businesses. The Beneficiary shall purchase from a local business and goods or services for which it expends more than Twenty Thousand and 00/100 Dollars ($20,000) per annum, unless the Beneficiary proves to the Authority's satisfaction that the goods or services are not available from a local business.

Section 9. Minimum Capital Investment

A Beneficiary must commit to make, and prior to the effective date verify having made a capital investment in a business or development the following minimum amounts for the following types of business:

Agriculture, Aquaculture, Mariculture	$	10,000.00
Manufacturing	$	100,000.00
Home Manufacturing	$	100.00
Commercial Fishing	$	25,000.00
Services	$	50,000.00
Tourist Facilities	$	50,000.00
Captive Insurance Companies	$	100,000.00
Export Trading Companies	$	100,000.00
Industrial Facilities	$	100,000.00
Hotels, Motels	$	500,000.00
Hotels, First Class	$	5,000.000.00
Hotels, Business Class	$	1,000.000.00

Section 10. Recommendations

a. Before making its final recommendation to the Governor, the Board shall consider and make specific findings on the following:

1. The impact of the Beneficiary's proposed activities upon established business and markets in the Territory.
2. The financial risks facing the Beneficiary to undertake the proposed activities.
3. The location of the proposed activities; and
4. The importance of the proposed activities to the economy of Guam and the government's officially adopted economic policies.

b. In its recommendation of specific tax benefits, the Board shall consider the following as possible alternatives:

1. Limiting the tax benefits to a percentage of the capital investment to be made by the Beneficiary within the Territory;
2. Varying the rates of tax benefits over the term of the Qualifying Certificate;

3. Limiting the tax benefits to a fixed dollar amount; and
4. Conditioning the tax benefits upon the Beneficiary's investment in or creation of public improvements separate from its proposed activities.

Section 11. Fees

a. The following fees shall be assessed to each applicant and/or recipient of a Qualifying Certificate pursuant to 12 GCA §2425.

	Filing Fee	Annual Surveillance Fee
Agriculture, Aquaculture, Mariculture	$ 150.00	$ 500.00
Machine Manufacturing	750.00	2,000.00
Home Manufacturing	100.00	100.00
Other Manufacturing	750.00	2,000.00
Commercial Fishing	250.00	1,000.00
Services	750.00	2,000.00
Leasehold Services	Based on Industry filing fee	0.75% of Lease pymt.
Tourist Facilities	1,000.00	3,000.00
Captive Insurance Companies	750.00	1,000.00
Export Trading Companies	750.00	1,000.00
Industrial Facilities	750.00	1,000.00
Motels Under Construction	750.00	2,000.00
Motels In Operation	750.00	$25 per room
Hotels Under Construction	1,500.00	3,000.00
Hotels In Operation	1,500.00	$45 per room

b. The Board shall have the Authority to reduce any surveillance fee on case by case basis upon showing of undue hardship or other cause.

Section 12. Authority

These rules and regulations are made pursuant to 12 GCA §2117, §2403, §2425, and in accordance with the provisions of the Administrative Adjudication Law.

GUAM ECONOMIC DEVELOPMENT AUTHORITY
RULES AND REGULATIONS

PART II
COMPLIANCE OF QUALIFYING CERTIFICATE

Section 1. Purpose

The purpose of this part of the rules and regulations is to establish pursuant to §2403. Chapter 2, Title 12, Guam Code Annotated, further procedures and instructions for monitoring and certifying compliance with the terms and conditions of all effective Qualifying Certificates.

Section 2. Responsibilities

The Administrator shall be responsible for the management and administration of the Qualifying Certificate compliance program and may delegate inspections, monitoring and reports to a Management and Compliance Officer.

Section 3. Inspections

All recipients of Qualifying Certificates must adhere to the following inspections requirements:

a. As a minimum requirement semi-annual on-site inspections shall be conducted on all Qualifying Certificate recipients during the term of the Qualifying Certificate. Additional inspections will be at the discretion of the Authority.

b. At least one (1) of the semi-annual inspection shall be scheduled to coincide with the Ending of the Beneficiary's fiscal year.

c. In the case of new construction, one (1) inspection shall be conducted within thirty (30) to sixty (60) days prior to the completion of construction and a second inspection thirty (30) days after the commencement of operations.

d. During the course of all inspections, the Qualifying Certificate recipient shall provide for review by the Authority copies of all requested records and documents in order for the Authority to determine the following:

    1. Adherence to these rules and regulations;
    2. Employment level and classification status;

3. Fringe benefits offered;
4. Training programs in effect;
5. Safety programs in effect;
6. Employee rules and regulations;
7. Affirmative Action Plan for hiring the disabled;
8. Annual audited financial statements and tax returns; and
9. Any other records or documents the Authority requires to determine compliance.

e. The inspection process will include an inspection of the business or development in order for the Authority to determine:

1. Access for the Handicapped;
2. Overall conditions of the development or business; and
3. Any other areas the Authority requires to determine compliance.

Section 4. Reports

The following reports shall be prepared by the Authority in conjunction with the inspection process:

a. Inspection Report – a concise detailed inspection report shall be required within fifteen (15) working days from date of inspection for review by the Administrator and the Board.

b. Monthly Status Report – a detailed status report of the previous month activities shall be required for review by the Board at the regularly scheduled meeting.

Section 5. Ground for Suspension, Recision, or Revocation

In accordance with the Administrative Adjudicative Act, the Board may suspend, rescind or revoke a Qualifying Certificate where the Beneficiary fails to comply with any of the rules, the terms or conditions of the Qualifying Certificate or any provision of law.

Section 6. Compliance

When it has been determined by the Authority that the terms and conditions stipulated on the Qualifying Certificate have been fulfilled by the recipient, the Authority shall forward a "Certificate of Compliance" together with a copy of the recipients' corporate income tax return and certified audited financial statements to the Department of Revenue and Taxation.

Section 7. Non-Compliance

a. When it has been determined by the Administrator that the terms and conditions stipulated on the Qualifying Certificate, a provision of law or a requirement imposed by these rules have not been met, then the Administrator shall notify the Beneficiary in writing of the specifics of the non-compliance and provide reasonable time limit in which to correct the discrepancy.

b. In the event that the Beneficiary continues to be in violation of any requirement of the rules of the Qualifying Certificate or imposed by law after the expiration of the time allowed in the Notice then the Board may take the action referred to in Rule 5, supra.

c. In the event the Beneficiary is required to temporarily discontinue operations due to the extenuating circumstances which are acceptable to the Authority, then the Board may accept a "voluntary suspension" of the Qualifying Certificate from the Beneficiary not to exceed one (1) year. If after the one (1) year period the Beneficiary is still unable to continue operations, the Authority may recommend revocation to the Board in accordance with the Administrative Adjudication Law or may accept a "voluntary surrender" of the Qualifying Certificate.

Section 8. Authority

These rules and regulations are made pursuant to the 12 GCA §2403 and §2406 and in accordance with the provisions of the Administrative Adjudication Law.

II. Title 12 - Guam Code Annotated

Chapter 58 - Qualifying Certificates

CHAPTER 58
Qualifying Certificates

§58100. Legislative findings and intent.
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§58115. Conflicts of interest.
§58116. Employment of United States citizens and permanent residents
§58117. Same: work force.

NOTE 1: THIS ENTIRE CHAPTER WAS AMENDED, FIRST BY P.L. 22-81 AND NOW BY P.L. 22-159, THE LATTER DATED 12/29/94. IT IS UNDERSTOOD THAT P.L. 22-81 WAS AN INVALID ACT BECAUSE THE VERSION SIGNED BY THE GOVERNOR WAS NOT THE SAME VERSION PASSED BY THE LEGISLATURE. THE LEGISLATURE TRANSMITTED THE WRONG VERSION TO THE GOVERNOR IN ERROR. P.L. 22-159 HAS NOT BEEN QUESTIONED. P.L. 22-159 AMENDED THIS CHAPTER AS 12 GCA ARTICLE 4 IN ITS ENTIRETY, AND, AS AMENDED, IS REPRODUCED HERE.

NOTE 2: AMENDMENTS RE: INSURANCE & AFFORDABLE HOUSING FROM P.L. 23-109, P.L. 23-135 AND P.L. 24-266 HAVE BEEN INCORPORATED HEREIN AS OF MAY 1, 1999.

NOTE 3: P.L. 25-08 (ALSO KNOWN AS THE GUAM-BASED TRUST INCENTIVES ACT) HAS BEEN INCORPORATED INTO THIS CHAPTER AS §§58128.6(a) THROUGH (g), AS AMENDED BY P.L. 25-150 ENACTED ON JULY 7, 2000.

§58118. Same: wages.
§58119. Same: trainees.
§58120. Participation in training programs.
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§58145. Periodic adjustment of fees.
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§58100. Legislative findings and intent. The Legislature recognizes that the Qualifying Certificate program of the Guam Economic Development Authority (the *Authority*) was conceived as an economic incentive tool to entice investors into Guam. In use

for over two decades, it has had substantial positive impact upon the economic development of the territory, mainly in the tourist industry.

The Legislature finds that, today, new hotel construction, expansion of existing ones, and development of resorts are occurring in response to demands for additional lodging due to the ever-increasing numbers of visitors to Guam and that government assistance in the form of tax rebate and abatement benefits requires periodic assessment of the growth in this section of Guam's business community.

Investment by foreign entrepreneurs continues to be major catalyst for Guam's financial growth. The bulk of their interests, however, lies in large-scale projects that mainly benefit other off-island investors, transients mostly, and which also put undue pressure on the island's infrastructure to expand and meet their needs, depleting rapidly Guam's finite essential resources such as people, land and water. While the territory acknowledges their contributions to the island's welfare in terms of taxes, construction, and employment opportunities on the low end on the pay scale, meaningful participation by people who live and work in Guam, particularly in terms of ownership and joint ventures, has been sorely lacking.

It is the Legislature's intent to restructure the Qualifying Certificate program to assist U. S. citizen and permanent resident entrepreneurs in establishing or expanding industries and services industries and services, including those supportive of hotels and their guests, to diversify the island economy, enrich its growth, and enhance the quality of life in Guam. The Legislature affirms that the program must be expanded to attract investments in order to diversify Guam's economy.

§58101. Qualifying Certificate defined. A *Qualifying Certificate* is a contract valid for a given period of time, executed by the Governor upon recommendation of the Authority, between the government of Guam and the Beneficiary, which has qualified for certain tax rebates or tax abatements or for both in return for meeting certain employment, investment, and other requirements as described in this Chapter and in the Qualifying Certificate.

§58102. Beneficiary defined. The recipient of a Qualifying Certificate shall be known as a *Beneficiary*.

§58103. Benefits of a Qualifying Certificate. A Qualifying Certificate shall entitle the Beneficiary to tax rebates or tax abatements or both in return for meeting the conditions and requirements prescribed by the Authority in this Chapter and in the Qualifying Certificate.

§58104. Eligibility defined. A Qualifying Certificate shall only be issued to the following entities:

Any trust, partnership, sole proprietorship, corporation formed under the laws of Guam, or *possessions* corporation as defined in §58106 of this Chapter, engaged, or about to engage in any of the following activities:

1. Agriculture;
2. Aquaculture;
3. Mariculture;
4. Manufacturing;
5. Commercial fishing;
6. Services;
7. Tourism;
8. Improvement of real property by constructing and selling affordable

housing thereon, and for other purposes which are specifically determined by the Authority to be beneficial, desirable, and necessary for the economic development of Guam;

9. Insurance issuance, either by commercial insurers, reinsurers, or captive insurers which meet the requirements of Chapter III (Domestic Insurers), Title XXXIX, Government Code;

10. Export trading company as defined in 11 GCA §26101(d), ***if*** the main office of the export trading company is established on Guam.

§58105. Promotion of general economic improvement. No Qualifying Certificate shall be issued *unless* the Authority finds that the proposed activities of the Beneficiary shall promote the general economic development of the territory by:

§58105.1. Employment. Creation of employment; plus

§58105.2. Replace imports. Replacement of imports; or

§58105.3. Price reduction. Reduction in consumer prices; or

§58105.4. Affordable housing and needed facilities. Creation of affordable housing or other vitally needed facilities; or

§58105.5. Economic activity. Creation of economic activity of value to the territory; or

§58105.6. Insurance. Establishment of Guam as a financial/insurance center for the Pacific, and increasing the availability and lowering the cost of insurance in Guam.

§58106. Qualifying Certificate: issuance of. A Qualifying Certificate may be issued by the Governor of Guam upon the recommendation of the Authority to any applicant that proposes to engage in an eligible business, or to any applicant stockholder of such corporation holding a Qualifying Certificate, and said corporation may be either a Guam corporation or a duly organized "possessions corporation" limited to doing business in Guam, as such "possessions corporation" is defined under Federal income tax laws and regulations. Each Qualifying Certificate shall specifically identify on its face each activity of the Beneficiary which is entitled to the tax rebates or abatements set out in the Qualifying Certificate.

§58107. Same: nature of; benefits. A Qualifying Certificate, once issued, shall be a contract between the government of Guam and the Beneficiary, and the tax rebates or abatements or both set out in the Certificate may not be curtailed, limited or impaired without the consent of both parties by any subsequent act, *except* as provided herein. Once issued and *unless* suspended, rescinded or revoked, a Qualifying Certificate shall constitute conclusive evidence of entitlement to the tax rebates or abatements or both set out on its face.

§58108. Same: regulations. The Authority shall adopt regulations containing standards, criteria, and measures of investments for the Qualifying Certificate applicant and describing the benefits to be derived by the people of Guam in the issuance of Qualifying Certificates. Such regulations shall include preference to be extended to applicants which have a fifty-one percent (51%) or greater proportion of local ownership by *bona fide* Guam residents, U. S. citizens or permanent residents. The Authority shall recognize and take into consideration any and all provisions of law and regulations administered by other government entities that have review or approval authority over the eligible activity. All of the regulations of the Authority shall be adopted in the manner prescribed by the Administrative Adjudication Law.

§58109. Authority's findings on applications. In making its recommendation to the Governor, the Authority shall consider the make specific findings on the following:

(a) The impact of the Beneficiary's proposed activities upon established

businesses and markets in Guam;

(b) The financial risk facing the Beneficiary in undertaking the proposed activities;

(c) The location of the proposed activities;

(d) The importance of the proposed activities to the economy of Guam and to the official economic policies of the government of Guam, if any;

§58110. Conditions of benefits. In its recommendation of specific tax benefits, the Authority shall consider the following as possible terms and conditions to such benefits:

(a) **Percentage of investment.** Limiting the tax benefits to a percentage of the capital investment in Guam to be made by the Beneficiary;

(b) **Variable rate.** Varying the rate of tax benefits over the term of the Qualifying Certificate;

(c) **Limitation on amount.** Limiting the tax benefits tax fixed dollar amount;

(d) **Public investments.** Conditioning the tax benefits on the Beneficiary's investing in or creating public improvements separate from its proposed activities;

(e) **Local shareholders.** Requiring the Beneficiary to offer ten percent (10%) or more of its corporate equity to qualified residents of Guam on terms and conditions to be established by the Authority.

(f) **Profit-sharing, etc.** Requiring the Beneficiary to establish profit-sharing and stock ownership programs and other similar benefits for its employees;

(g) **Training.** Requiring the Beneficiary to (i) establish in-house training programs or (ii) make contributions to an independent training or scholarship fund; or

(h) **Local purchaser.** Requiring the Beneficiary to procure services or products supplied by Guam-licensed vendors if the total cost of the same does not exceed one hundred ten percent (110%) of the cost of the same services or products available from off-island vendors.

§58111. Grounds for suspension, rescission or revocation. A Qualifying Certificate may be suspended, rescinded or revoked by the Governor of Guam upon the recommendation of the Authority for the following reasons:

(a) **Fraud.** Fraud or misrepresentation of any material allegation in the application for such Certificate;

(b) **Noncompliance with Certificate.** Failure to comply with any condition or obligation set out in the Certificate after having been notified by the Authority in writing of such failure to comply and after having been given by the Authority a reasonable period of time within to correct such failure;

(c) **Bankruptcy.** The filing by or against the Beneficiary of a petition for bankruptcy;

(d) **Dissolution or death.** A finding by the Attorney General that a corporate Beneficiary has been dissolved, that a partnership Beneficiary has been dissolved, or that an individual Beneficiary has died;

(e) **Noncompliance with laws and rules.** Failure to comply with any provision of this Chapter or with the applicable rules and regulations of the Authority.

§58112. Hearing required. No recommendation for suspension, rescission or revocation of a Qualifying Certificate shall be made by the Authority *except* after a hearing thereon pursuant to the provisions of the Administrative Adjudication Law.

§58113. Retroactive suspension. The suspension, rescission or revocation of a Qualifying Certificate may be retroactive to the time of the act or omission giving rise to the suspension, rescission or revocation or for any shorter period recommended by the Authority.

§58114. License required. A Qualifying Certificate shall not be issued to any applicant who has not first obtained a license to do business in Guam.

§58115. Conflicts of interest. No employee or board member of the Authority or their spouses and no corporation or any other legal entity in which any employee, board member or counsel of the Authority, or their spouses has any financial interest is eligible to apply for a Qualifying Certificate. Neither shall any of the following, during their term of office and for a period of one (1) year after their resignation, termination, or completion of their term of office, directly or indirectly, qualify for a Qualifying Certificate:

(a) Members of the Legislature and their spouses;

(b) Full-time employees of the executive branch of the government of Guam, and their spouses, from the level of first assistant to the agency director or chief executive and up;

(c) The Governor of Guam, the Lieutenant Governor and their spouses;

(d) Employees of the Governor's Office and their spouses;

(e) Judges of the various courts of Guam and their spouses;

Any Qualifying Certificate issued in violation of this Section shall be void *ab initio*.

§58116. Employment of United States citizens and permanent residents. Every Qualifying Certificate shall include a requirement that the Beneficiary shall submit a plan for a management training program for the approval of the Authority. The plan shall establish a management training program through which the Beneficiary shall have as managers and officers residents of Guam who are United States citizens or permanent residents of the United States.

§58117. Same: work force. (a) **Minimum size.** A Beneficiary shall at all times employ a total work force of not less than the minimum full-time equivalent number established by the Authority and as set out in the Qualifying Certificate. However, at *all* times, the work force of a Beneficiary shall meet the following *minimum* requirements:

(1) **Initial minimum requirement.** At least seventy-five (75%) of the Beneficiary's non-managerial employees shall be United States citizens or permanent residents of the United States; and

(2) **Subsequent minimum requirement.** After the expiration of three-fourths (3/4ths) of the period of the Qualifying Certificate or ten (10) years, whichever is *sooner*, the Beneficiary shall satisfy the seventy-five (75%) employment requirement for both management and non-management employees.

(b) **Management and non-management employees.** The Authority shall be the sole judge of whether a Beneficiary's employee is management or non-management but it may seek advice from the University of Guam, the Guam Community College, the Department of Labor, or such other government agencies as are helpful in advising on carrying out the provisions of this Section. The Authority shall establish by regulation the requirements for practical and equitable training programs as guidance for the Beneficiary and the reasonable minimum number of persons to be employed on a continuing basis for each Beneficiary in accordance with the specific and normal requirements of the business involved. The Authority shall annually report to the Legislature the titles and compensation of all trainees, including those placed in management levels, who are employed by the Beneficiaries of Qualifying Certificates.

§58118. Same: wages. No resident employee of a Beneficiary shall be paid at less than the prevailing wage rate nor shall such employee be laid off work nor have his or her workweek reduced to less than forty (40) hours in order to create employment for employees who are not United States citizens or permanent residents of the United States. For the purpose of this Section, "prevailing wage rate" shall mean such rate as is established from time to time by the Department of Labor. The Department of Labor is empowered to investigate any complaint filed under this Section and to settle the same by issuance of an appropriate order after notice and hearing pursuant to the provisions of the Administrative Adjudication Law. Any willful violation of this Section, or of any order issued hereunder, may be cause for a Beneficiary of a Qualifying Certificate to forfeit the benefits thereof.

§58119. Same: trainees. For purposes of the employee percentages of §58117 of this Chapter, a Beneficiary may include among its employees "trainees" as that term is defined by the Authority's regulations. For good cause shown, the Authority may grant specific and limited exemptions to the percentage employment requirements of §58117 but only if a training program has been implemented by the Beneficiary as required by §58117.

§58120. Participation in training programs. Every Qualifying Certificate which covers the operation of a hotel or restaurant shall require its Beneficiary to participate in (i) the Hotel/Restaurant Industry Apprenticeship Training Program administered by the Guam Community College or other subsequent and similar programs approved by the Authority and (ii) the Management and Supervisory Training Program administered by the University of Guam's College of Business and Public Administration or other subsequent and similar programs approved by the Authority. Failure to actively participate in such training programs shall be grounds to revoke or suspend the Beneficiary's Qualifying Certificate.

§58121. Qualifying Certificate: non-transferable. A Qualifying Certificate or the benefits thereunder may not be transferred, assigned or conveyed to another person, firm, partnership, or corporation **without** the written permission of the Authority. For the purpose of this Section, a transfer of benefits shall have occurred at any time that there is a transfer of a majority of the voting stock of the Beneficiary resulting in a change in the identity of the shareholders who control the Beneficiary. Similarly, a transfer of benefits shall occur whenever a Beneficiary shall lease, assign, or transfer a substantial part of its activities outside of the ordinary course of its business.

§58122. Application for Qualifying Certificates. Applications for Qualifying Certificates shall be filed on forms prescribed and furnished by the Authority and shall require such disclosures as the Authority shall deem appropriate.

§58123. Monthly reports. The Beneficiary of a Qualifying Certificate must furnish monthly written reports to the Authority beginning thirty (30) days after the date of the issuance of the Qualifying Certificate. Said reports must include, but are not limited to, financial, employment and payroll data. All such monthly reports shall be treated as confidential by the Authority.

§58124. Publication of all applications for Qualifying Certificates. The Authority shall cause to be published, at the applicant's expense, in a Guam newspaper of general circulation, a brief résumé of an application for a Qualifying Certificate, said publication to be made no later than seven (7) days following submission of an application. The résumé shall be in a form prescribed by the Authority, and it shall include the name and address of the applicant, a brief statement of the proposed investment, a brief summary of the tax rebates and abatements applied for, and the names and addresses of all owners, partners, or shareholders of the Applicant. Following the filing of the application in due form, payment of

the prescribed fees and publication of the résumé, a public hearing shall be held pursuant to the rule-making provisions of the Administrative Adjudication Law.

§58125. Notice of hearing on applications. A notice of the public hearing required by §58124 of this Chapter shall be published at the applicant's expense in a Guam newspaper of general circulation in a form prescribed by the Authority at least five (5) days but no more than ten (10) days before the scheduled public hearing date. The Authority shall take all reasonable precautions in connection with such public hearings to avoid disclosure of proprietary secrets of the applicant. The Authority may schedule additional public hearings as necessary. The Authority meeting for approval or disapproval of a Qualifying Certificate shall *not* be held on the same day as a public hearing on the same Qualifying Certificate application.

§58126. Recommendations. All recommendations of the Authority for issuance, modification, renovation and suspension of Qualifying Certificates shall be forwarded to the Governor of Guam, together with a memorandum of the Authority's findings in support of its recommendations. Any recommendation of the Authority not approved by the Governor within sixty (60) calendar days from his receipt thereof shall be deemed disapproved on the sixty-first (61st) day following such receipt.

§58127. Tax abatements. Subject to the provisions of this Chapter, the Governor is authorized to issue a Qualifying Certificate abating the following taxes on the following terms:

§58127.1. Property taxes. All taxes now levied by virtue of Chapter 24, Title 11, Guam Code Annotated, known as the Real Property Tax Law, shall be abated for a period up to ten (10) years from the effective date of the Qualifying Certificate therefor, and as long as said Certificate is in force and effect; *provided,* that the real property on which the tax is assessed is only utilized by the Beneficiary for activities identified in the Qualifying Certificate.

§58127.2. Rental of land, building or equipment. All taxes now levied on income derived from the lease of land buildings, machinery or equipment by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period up to ten (10) years, from the effective date of a Qualifying Certificate therefor, and as long as said Certificate is in force and effect; *provided*, that said income is derived from the lease of land, building, machinery or equipment to a Beneficiary of a Qualifying Certificate.

§58127.3. Sale of alcoholic beverages. All taxes now levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period up to ten (10) years from the effective date of a Qualifying Certificate therefor, and as long as said Certificate is in force and effect; *provided*, that the gross receipts on which such tax shall be abated have been derived from the sale of alcoholic beverages manufactured in Guam by the manufacturer thereof and that such manufacturer is the Beneficiary of a Qualifying Certificate.

§58127.4. Sale of petroleum products. All taxes levied or paid by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated or rebated for a period up to ten (10) years from the effective date of the Qualifying Certificate therefor, for those gross receipts derived from the sale of petroleum products manufactured in Guam and sold to agencies or instrumentalities of the United States of America, or agencies or instrumentalities of the government of Guam by the manufacturer thereof; *provided*, that a Qualifying Certificate for such a tax rebate or abatement is granted pursuant to the provisions of this subsection; and *provided, further*, that at any such time that

a manufacturer possessing such a Qualifying Certificate no longer continues to qualify for the Certificate, the taxes shall no longer be abated or rebated.

§58127.5. Insurance premiums. All taxes now levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period of up to twenty (20) years from the effective date of the Qualifying Certificates therefor, for those gross receipts derived from underwriting insurance risks either in or out of Guam, including gross receipts derived from investing funds generated from insurance underwriting in Guam by an insurance company that has qualified and continues to qualify for a Qualifying Certificate. Such insurance Qualifying Certificates may be renewed for additional periods for twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains in good standing under the laws of Guam and under the rules and regulations of the Authority.

NOTE: While all previous sections refer to GC §43714, the original Captive Insurers law establishes the tax at §43713. Section §43714 deals with Rules & Regulations. The Compiler presumes that §43713 is meant.

§58127.6 Development of affordable housing. All taxes levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period up to twenty (20) years from the effective date of the Qualifying Certificate therefor, for those gross receipts derived from the construction of affordable housing; *provided*, that a Qualifying Certificate for such a tax abatement is granted pursuant to the provisions of this subsection. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the receipts the subject of the abatement are derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority.

§58128. Tax rebates. Subject to the provisions of this Chapter, the Governor is authorized to issue a Qualifying Certificate which establishes the following tax rebate:

§58128.1. Income tax rebate. A rebate of up to seventy-five percent (75%) of all income tax paid to the government of Guam by a Beneficiary on income received from those activities identified in the Qualifying Certificate may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor.

§58128.2. Variable rates. The percentage of rebate may be made variable by the Authority so as to permit higher or lower percentages in earlier or later years of the period. In determining the periods up to twenty (20) years and the percentages up to seventy-five (75%) the Authority shall take into consideration the financial risks involved in the undertaking as well as the impact on the socio-economic development of Guam by the proposed investment.

§58128.3. Determination of income. For the purposes of this Section, the term "income tax paid" shall mean income taxes paid on income received on or after the effective date of the applicable Qualifying Certificate. The Director of Revenue and Taxation of the government of Guam shall have authority to determine any prorations of rebates necessary because of taxable years occurring within the life of the applicable Qualifying Certificate which consist of less than a full twelve (12) months.

§58128.4. (a) One Hundred Percent Rebate on Certain Insurance Income. A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on all income received from insurance underwriting either inside or outside of Guam, including all income derived from investing funds derived from operating an insurance underwriting business on Guam, may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor; *provided*, that as to Guam risks and policy holders the Beneficiary does not issue a policy directly to

the policy holder but only issues the same through a licensed Guam insurance broker. Such insurance Qualifying Certificates may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains in good standing under the laws of Guam and under the rules and regulations of the Authority.

(b) Rebates on Dividends to Shareholders of Qualified Insurance Underwriters. A rebate of one hundred percent (100%) of the income tax withheld from the shareholders of an insurance underwriting business on the dividends from such business may be issued for a period not to exceed twenty (20) consecutive years from the effective date of the Qualifying Certificate therefor; *provided*, that: **(i)** the insurance underwriting business paying the dividends is the Beneficiary of a Qualifying Certificate; **(ii)** the dividends are paid from the insurance or investment earnings of such business as identified in its Qualifying Certificate, which dividends were received, on a cash basis, during the original or an extended period of the Qualifying Certificate; and **(iii)** the dividends were subject to a withholding tax thereon pursuant to those provisions of the Territorial Income Tax Law requiring the withholding as income tax thereon of a fixed percentage of any dividends paid to non-residents of Guam. If the shareholder is a resident of Guam then such share holder may be granted a Qualifying Certificate on dividends pursuant to §58130 of this Chapter. Such Qualifying Certificates for non-resident insurance shareholders may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains a shareholder of an insurance underwriting business that is the holder of its own Qualifying Certificate and is in good standing under the laws of Guam and under the rules and regulations of the Authority.

§58128.5. One hundred percent rebate on income from constructing affordable housing. A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on income received from the construction of affordable housing in Guam may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the income the subject of the rebate is derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority.

§58128.6. (a) One Hundred Percent Rebate on Certain Trust Income. A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Guam-based trust on all its earnings from either inside of outside of Guam, including all income derived from investing funds in Guam or elsewhere, may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. For purposes of this §58128.6, a '*Guam-based trust*' means: **(i)** an arrangement created by will or by an *inter vivos* declaration whereby a trustee or trustees take title to property to protect or conserve the same for a beneficiary or beneficiaries of the trust under probate and chancery court rules; **(ii)** Guam is the principal place of administration of the trust, and for trusts with United States fiduciaries, a choice of laws election can be made for primary jurisdiction to be under the Federal District Court of the elected state; **(iii)** a minimum of Ten Thousand Dollars ($10,000.00) in U.S. currency remains in deposit at a local financial institution for the duration of the trust; *and* **(iv)** the trust property is *not* employed, directly or as shareholder, in a business for the settlor or the beneficiary, and for the purposes of this Subsection, 'business' has the same meaning as 'engaging in or carrying on a business' as in the Business License Law in §70103(c) of Title 11 of the Guam Code Annotated and includes *only* businesses which are required to be licensed, or are excepted from obtaining a license pursuant to the policy and provisions of §§70102 and 70130 of Title 11 of the Guam

Code Annotated. A Guam-based trust shall be defined as a person under Treasury Regulations §301.7701-7(a) and notwithstanding the definition contained in Treasury Regulation §301.7701-7(c)(3)(ii), a Guam-based trust shall be considered a United States Domestic Trust under the provisions of §301.7701(c)(4)(ii)(D). Such Special Qualifying Certificates for Guam-based trusts may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods *so long as* the trust remains in good standing under the laws of Guam and under the rules and regulations of the Authority."

(b) Rebates on Payments to Non-resident Beneficiaries of Guam-Based Trusts. A rebate of one hundred percent (100%) of the income tax withheld from the non-resident beneficiaries of a Guam-based trust on the payments or distributions made to such beneficiaries from such a Guam-based trust may be issued for a period not to exceed twenty (20) consecutive years from the effective date of the Qualifying Certificate therefor; *provided*, that: **(i)** the Guam-based trust making the payments or distributions is the holder of a Qualifying Certificate; **(ii)** the payments or distributions are made from the property of such Guam-based trust, which payments or distributions were received, on a cash basis, during the original or an extended period of the Qualifying Certificate; and (iii) the payments or distributions were subject to a withholding tax thereon pursuant to those provisions of the Territorial Income Tax Law requiring the withholding as income tax thereon of a fixed percentage of any fixed or determinable annual or periodical gains, profits or income received by non-residents of Guam. Such Qualifying Certificates for non-resident beneficiaries of Guam-based trusts may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the holder of the Qualifying Certificate remains a beneficiary of Guam-based trust that is the holder of its own Qualifying Certificate and is in good standing under the laws of Guam and under the rules and regulations of the Authority.

§58129. Taxability of abatements and rebates: Legislative intent. It is the intent of the Legislature that the abatement or rebate of taxes to Beneficiaries pursuant to §§58127, §58128, §58129, §58130 and §58131 of this Chapter shall be abatements or rebates on the taxes owed on the eligible activities identified in the Qualifying Certificates issued therefor and that no portion of such abatements or rebates shall be later subject to taxation as additional income to the Beneficiary.

§58130. Income tax rebate on dividends. A rebate of up to seventy-five percent (75%) of the income tax paid by the shareholders of a corporation on the dividends of that corporation may be granted for a period not to exceed five (5) consecutive years; *provided,* however, that the corporation paying the dividends is the Beneficiary of a Qualifying Certificate and that the dividends are being paid from the corporation's earnings on activities identified in the Qualifying Certificate which were received, on a cash basis, during the five (5) year period.

§58131. Income tax rebates for the shareholders of a "Subchapter S" corporation. A rebate of up to seventy-five percent (75%) of all income tax paid by the shareholders of a corporation which has elected to be taxed as a "Subchapter S" corporation, as defined at §1361, Title 26, United States Code, or any successor provision, on the income of the corporation which was received from those activities identified in the Qualifying Certificate, may be granted for a period not to exceed twenty (20) years following the effective date of the Qualifying Certificate therefor.

§58132. Modification of tax benefits. In the event that a Beneficiary proposes to substantially expand or add to its activities and desires to obtain a modification of its original Qualifying Certificate to include its proposed additional activities, then upon findings and

recommendations of the Authority, the Governor may modify the original Qualifying Certificate, *subject* to the following conditions:

(a) **Findings.** The Authority specifically finds that the additional proposed activities of the Beneficiary satisfy the requirements of §§58103 and §58106 of this Chapter and that the Authority makes recommendations required by §58109 of this Chapter;

(b) **Cancellation of original Certificate.** The original Qualifying Certificate shall be surrendered and canceled;

(c) **Changes in benefits.** The tax benefits applicable to the additional activities may be at rates or for a term different from those tax benefits applicable to the activities described in the original Qualifying Certificate, and the new Qualifying Certificate may include terms, conditions, rebates or abatements different from those in the original Qualifying Certificate.

§58133. Extended term. In lieu of the percentage of tax abatements and rebates authorized in this Chapter, the Authority may recommend and the Governor may grant fifty percent (50%) of said abatements and rebates for a period of double the term authorized by this Chapter.

§58134. Acknowledgment of benefits by Tax Commissioner. When the Authority forwards its recommendations to the Governor on the issuance of a Qualifying Certificate, it shall transmit a copy of such recommendations to the Tax Commissioner of Guam for his information. The Tax Commissioner shall forthwith acknowledge in writing to the Governor and to the Authority that the proposed tax benefits are understood and accepted by the Department of Revenue and Taxation.

§58135. Procedure to claim abated and rebated taxes. The Authority shall monitor the activities of the Beneficiary and its compliance with all of the terms and conditions of the Qualifying Certificate, this Chapter and the regulations of the Authority and it shall, if justified, issue annually its certificate of compliance by the Beneficiary. No rebate or abatement of any tax shall occur unless the Beneficiary shall have received a certificate of compliance for the applicable tax year.

§58136. Abatement of tax. When the return for the abated tax is accompanied by a corresponding certificate of compliance for the previous year or part thereof then the actual payment of the tax in question to the government of Guam shall not be required, and upon review of the tax return, the Tax Commissioner of Guam shall, within one hundred twenty (120) days from receipt of said tax return, furnish the taxpayer a certification confirming the nature and amount of the tax abated.

§58137. Rebate of tax. In the case of an income tax rebate, where the taxpayer's tax return is accompanied by a certificate of compliance, the amount of a tax due prior to rebate shall be deposited with the government of Guam at the time of filing the income tax return. The Tax Commissioner of Guam shall immediately thereafter cause the return to be reviewed and if the rebate is found in order shall cause the amount of the rebate to be withdrawn from the deposit and returned to the taxpayer within one hundred eighty (180) days from the date of the deposit, without interest. The balance of the deposit shall be credited against the taxpayer's income tax obligation to the government of Guam.

§58138. Rebate fund. Deposits for income tax made with the government of Guam pursuant to this Chapter shall be covered and deposited into a separate, special account in the Treasury of the territory of Guam, to be designated the *Income Tax Rebate Fund*.

§58139. Tax redeterminations. In the case of any Beneficiary that, in accordance with the applicable laws of Guam, shall have applied for and been granted a redetermination of tax liability or taxes payable or in the case of a redetermination of tax liability made by the

Department of Revenue and Taxation, the amount of abated or rebated taxes determined for such Beneficiary for the taxable years affected shall be accordingly adjusted by the Director of Revenue and Taxation and said Beneficiary shall be required to pay the balance due for said taxable years, if any, together with interest at the rate currently assessed by the government of Guam per annum from the date the Beneficiary realized the abatement or rebate benefit; *provided*, that said balance due may be offset or credited against any tax refund due to the Beneficiary.

§58140. Implementation by Tax Commissioner. The Tax Commissioner of Guam is hereby authorized to issue such rules and regulations as he may deem necessary to implement the procedures outlined in this Chapter.

§58141. Limited to government of Guam taxes. All abatements and rebates herein established and authorized shall apply only to the taxes due the government of Guam.

§58142. Investment of abated or rebated tax in Guam. Each Qualifying Certificate, except for a Qualifying Certificate issued to an insurer pursuant to the provisions of §§58127 and 58128 of this Article, shall require a Beneficiary to invest within Guam no less than fifty percent (50%) of any taxes rebated or abated under §§58127 and 58128 of this Article for a period of five (5) years following the rebate or abatement. A Beneficiary shall report all such investments to the Authority.

§58143. Fees. On the effective date of this Chapter, and until modified pursuant to §58145 of this Chapter, the following fees shall be assessed against each applicant or Beneficiary of a Qualifying Certificate:

	FILING FEES:	**ANNUAL SURVEILLANCE FEES:**
Agriculture, aquaculture, and mariculture:	$150	$500
Home manufacturing:	$100	$100
Manufacturing:	$750	$2,000
Commercial fishing:	$250	$1,000
Services:	$750	$2,000
Leasehold services:	$750	0.75% of annual lease payments
Tourism:	$1,000	$3,000
Insurers:	$750	$1,000
Export trading companies:	$750	$1,000
Motels per motel:		
Under construction:	$750	$2,000
In operation:	$750	$25 per room
Hotels per hotel:		
Under construction:	$1,500	$3,000
In operation:	$1,500	$45 per room
Construction of affordable housing:	$750	$1,000

§58144. Extraordinary costs. In addition to the filing and surveillance fees, the Authority may also assess against an applicant or Beneficiary any extraordinary costs and expenses incurred to process the application or monitor the Beneficiary's performance of the terms and conditions of the Qualifying Certificate. Such cost and expenses shall not include the salaries of any employees of the Authority but may include but are not limited to the

services of outside consultants, or off-island trips necessitated by the application or the surveillance.

§58145. Periodic adjustment of fees. The Authority is authorized to adjust the fees listed in §58143 of this Chapter on an annual basis, at the beginning of each calendar year, upon demonstration to the Authority by the Administrator that the cost of performing the services covered by the fees is greater than the amount of the fees. Fee changes shall be made according to the provisions of the Administrative Adjudication Law.

§58146. Rule-making authority. In accordance with the Administrative Adjudication Law the Authority shall adopt rules and regulations consistent with this Chapter which provide for, but are not limited to the following: Eligibility, minimum investment levels for different industries, the applications process, the terms and conditions of the various Qualifying Certificates, the monitoring procedure and the revocation of Qualifying Certificates.

III. Public Law 24-266

Public Law 24 - 266

MINA'BENTE KUATTRO NA LIHESLATURAN GUAHAN

1998 (SECOND) Regular Session

Bill No. 480 (COR)
As substituted by the Committee
on Tourism, Economic Development
and Cultural Affairs and further
substituted on the Floor by the Author
and amended.

Introduced by:
A. C. Lamorena, V
A. R. Unpingco
Felix P. Camacho
J. C. Salas
T. C. Ada
F. B. Aguon, Jr.
A. C. Blaz
J. M.S. Brown
Francisco P. Camacho
M. C. Charfauros
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
L. F. Kasperbauer
C. A. Leon Guerrero
L. A. Leon Guerrero
V. C. Pangelinan
A. L.G. Santos
F. E. Santos
J. Won Pat-Borja

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AN ACT TO AMEND §§70105, 70107, 70108 AND 70109 OF CHAPTER 70, AND §58128.4 OF CHAPTER 58, AND TO ADD §58128.6 TO SAID CHAPTER 58, ALL TO DIVISION 2 OF TITLE 12 OF THE GUAM CODE ANNOTATED, RELATIVE TO CLARIFYING THE PROVISIONS ON TAX BENEFITS FOR HOTELS, TOURIST FACILITIES AND AFFORDABLE HOUSING DEVELOPERS, AND THE PROVISIONS ON WITHHOLDING TAXES, AND TO AUTHORIZE TAX BENEFITS FOR CERTAIN GUAM TRUSTS.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Section 70105 of Chapter 70, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

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

Section 2. Section 70107 of Chapter 70, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

"Section 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 qualifyingcertificate 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*."

Section 3. Section 70108 of Chapter 70, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read:

"**Section 70108. 'Sunset' Provision.** This Article shall take effect on its approval by *I Maga'lahen 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."

Section 4. Section 70109 of Chapter 70, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read:

"**Section 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'lahen Guahan* and *I Maga'lahen 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'lahen Guahan*. Such loan shall be repaid to the applicant without interest, as provided in subparagraph (c), *infra*. Until such loan is repaid 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."

Section 5. Section 58128.4 of Chapter 58, Division 2 of Title 12 of the Guam Code Annotated is hereby *amended* to read as follows:

"**Section 58128.4. (a) One Hundred Percent Rebate on Certain Insurance Income.** A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on all income received from insurance underwriting either inside or outside of Guam, including all income derived from investing funds derived from operating an insurance underwriting business on Guam, may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a QualifyingCertificate therefor; *provided*, that as to Guam risks and policy holders the Beneficiary does not issue a policy directly to the policy holder but only issues the same through a licensed Guam insurance broker. Such insurance Qualifying Certificates may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains in good standing under the laws of Guam and under the rules and regulations of the Authority.

(b) Rebates on Dividends to Shareholders of Qualified Insurance Underwriters. A rebate of one hundred percent (100%) of the income tax withheld from the shareholders of an insurance underwriting business on the dividends from such business may be issued for a period not to exceed twenty (20) consecutive years from the effective date of the Qualifying Certificate therefor; *provided,* that: (i) the insurance underwriting business paying the dividends is the Beneficiary of a Qualifying Certificate; (ii) the dividends are paid from the insurance or investment earnings of such business as identified in its Qualifying Certificate, which dividends were received, on a cash basis, during the original or an extended period of the Qualifying Certificate; and (iii) the dividends were subject to a withholding tax thereon pursuant to those provisions of the Territorial Income Tax Law requiring the withholding as income tax thereon of a fixed percentage of any dividends paid to non-residents of Guam. If the shareholder is a resident of Guam then such shareholder may be granted a Qualifying Certificate on dividends pursuant to §58130 of this Chapter. Such Qualifying Certificates for non-resident insurance shareholders may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the Beneficiary remains a shareholder of an insurance underwriting business that is the holder of its own Qualifying Certificate and is in good standing under the laws of Guam and under the rules and regulations of the Authority."

Section 6. Section 58128.6 is hereby *added* to Chapter 58, Division 2 of Title 12 of the Guam Code Annotated to read as follows:

"**Section 58128.6. (a) One Hundred Percent Rebate on Certain Trust Income.** A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Guam-based trust on all its earnings from either inside or outside of Guam, including all income derived from investing funds in Guam or elsewhere, may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. For purposes of this §58128.6, a '*Guam-based trust*' means: (i) an arrangement created by will or by an *inter vivos* declaration whereby a trustee or trustees take title to property to protect or conserve the same for a beneficiary or beneficiaries of the trust under probate and chancery court rules; (ii) Guam is the principal place of administration of the trust; and (iii) none of the beneficiaries of the trust are residents of Guam. Such Qualifying Certificates for Guam-based trusts may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the trust remains in good standing under the laws of Guam and under the rules and regulations of the Authority.

(b) Rebates on Payments to Non-resident Beneficiaries of Guam-Based Trusts. A rebate of one hundred percent (100%) of the income tax withheld from the non-resident beneficiaries of a Guam-based trust on the payments or distributions made to such beneficiaries from such a Guam-based trust may be issued for a period not to exceed twenty (20) consecutive years from the effective date of the Qualifying Certificate therefor; *provided*, that: (i) the Guam-based trust making the payments or distributions is the holder of a Qualifying Certificate; (ii) the payments or distributions are made from the property of such Guam-based trust, which payments or distributions were received, on a cash basis, during the original or an extended period of the Qualifying Certificate; and (iii) the payments or distributions were subject to a withholding tax thereon pursuant to those provisions of the Territorial Income Tax Law requiring the withholding

as income tax thereon of a fixed percentage of any fixed or determinable annual or periodical gains, profits or income received by non-residents of Guam. Such Qualifying Certificates for non-resident beneficiaries of Guam-based trusts may be renewed for additional periods of twenty (20) years at the conclusion of the first or later periods so long as the holder of the Qualifying Certificate remains a beneficiary of a Guam-based trust that is the holder of its own Qualifying Certificate and is in good standing under the laws of Guam and under the rules and regulations of the Authority."

Section 7. Approval of Rules. *I Liheslaturan Guahan* finds that because the rules and regulations ("Rules") of the Guam Economic Development Authority ("GEDA") necessary to implement the provisions of Public Law Number 23-135 which enacted the foregoing provisions have not yet been filed with *I Liheslaturan Guahan*, and thus have not gone into effect, thereby depriving developers, owners, suppliers and contractors of the benefits of the public law, it is necessary to speed up the process to put such Rules into effect. The Rules have been the subject of a public hearing, pursuant to the Administrative Adjudication Law, and have been approved by the board of directors of GEDA and by *I Maga'lahen Guahan*. *I Liheslaturan Guahan* has reviewed the Rules and finds them appropriate and necessary. Accordingly, the Rules, a copy of which is attached to this Act, are hereby approved and shall go into effect on the approval of this Act. **Exhibit A.**

Exhibit A

RULES AND REGULATIONS OF
THE GUAM ECONOMIC DEVELOPMENT AUTHORITY
ON THE ISSUANCE OF QUALIFYING CERTIFICATES.

PART 3.

GENERAL RULES FOR QUALIFYING CERTIFICATES

FOR HOTELS, TOURIST FACILITIES AND AFFORDABLE HOUSING.
(P.L. No. 23-135, as amended)

CHAPTER 1.

SPECIAL TAX REBATES, ABATEMENTS AND EXEMPTIONS FOR HOTELS, TOURIST FACILITIES AND AFFORDABLE HOUSING DEVELOPMENTS.

Introduction.

Section 1.01. The rules and regulations ("Rules") set out in this Part describe the general procedures for obtaining a recommendation from GEDA for the issuance of a Qualifving Certificate ("QC") or a Certificate of Exemption to applicants therefor pursuant to the provisions of Chapter 70 and §§58104, 58105.4, 58143, 58127.6 and 58128.5 of Chapter 58, all of Division 2 of Title 12 of the Guam Code Annotated ("Hotel and Affordable Housing Development Law"). These Rules are adopted pursuant to the provisions of §§58108 and 58146 of Chapter 58, Division 2 of Title 12 of the Guam Code Annotated ("QC Law"), and of §70105 of the Hotel and Affordable Housing Development Law and in the manner prescribed by the Administrative Adjudication Law.

Purpose.

Section 1.02. The purpose of this Part of these Rules is to provide the general procedures and forms governing the application and issuance of a QC and of a Certificate to applicants therefor, and the compliance by QC and Certificate recipients with the terms of their QC's or Certificates, respectively, pursuant to the QC Law or the Hotel and Affordable Housing Development Law, or both.

Definitions.

Section 1.03. In these Rules, the following terms shall have the following meanings:

(a) Affordable Housing Unit; Affordable Housing Subdivision or Tract.
An "*affordable housing unit*" means a single-family residential dwelling unit built in accordance with the Uniform Building Code and in consonance with the Guam Zoning, and Subdivision Laws, whose selling price to a qualified buyer, including the price of the land thereunder, is no more than three times (3x) the income limit established by the U.S.

Department of Housing and Urban Development ("HUD") under its requirements for Median Family Income families of seven (7) persons in effect at the date the unit goes on sale. For example, under the limits in effect from December 27, 1996, such a median income family of seven (7) persons should not have in excess of Fifty-four Thousand Six Hundred Fifty Dollars ($54,650.00) in annual income and therefore the maximum selling price for an affordable housing unit, including the land thereunder, under such current limit is One Hundred Sixty-three Thousand Nine Hundred Fifty Dollars ($163,950.00). An affordable housing unit includes a condominium unit in a horizontal property regime for which a Final Public Report has been issued. Affordable housing can be constructed on land held in either fee simple or in leasehold, but if leasehold, the terms of the lease must be acceptable to GEDA. "Affordable housing subdivision or tract" means a subdivision or tract so designed that: (i) when the housing units are constructed thereon at least fifty-one percent (51%) of such units are "affordable" as defined in this Rule, and (ii) it meets all statutory and regulatory subdivision requirements on zoning yard set back requirements, infrastructure, common areas and beautification as mandated by the Guam Zoning and Subdivision Laws. To establish that an affordable housing subdivision or tract meets such requirements the applicant for a QC therefor pursuant to §§2.01 and 2.04, *infra*, of these Rules shall include with the QC application a certified copy of the Notice of Action filed by the Guam Land Use Commission ("GLUC") in connection with the approval, conditional or otherwise, by GLUC of the proposed subdivision or tract, and, as well, certified copies of any conditions or limitations imposed by any other government agency on such subdivision or tract. Such affordable housing subdivision or tract must also meet all environmental protection guidelines used by the Guam or Federal Environmental Protection Agencies, or equivalent regulatory authority, for water quality, erosion control, wetlands protection, and health and sanitation. If new and stricter environmental, zoning and subdivision laws, regulations or guidelines are adopted subsequent to the approval of these Rules, the QC applicant must conform its plans and specifications for an affordable housing subdivision or tract to such new laws, regulations and guidelines and submit proof of such conformity with the QC application.

(b) Beneficiary. A "*Beneficiary*" is the recipient of a QC.

(c) Board. "*Board*" means the board of directors of GEDA.

(d) Certificate. A "*Certificate"* is a certificate of exemption from the tax imposed under Article 2, formerly Subchapter B, of the Business Privilege Tax Law issued by GEDA to persons providing materials, supplies, labor or supervision used in the construction of Qualified Project, for which construction a QC is issued, pursuant §70105 of the Hotel and Affordable Housing Development Law.

(e) Contractor or Subcontractor. A "*contractor*" or "*subcontractor*" is an entity licensed as such which contracts or subcontracts for the construction of a Qualified Project or for affordable housing.

(f) Developer. A "*developer*" means the fee simple or leasehold owner of land who intends to use the same or a portion thereof for a Qualified Project or for affordable

housing; or a company or individual who provides a Qualified Project or Affordable Housing.

(g) Director. "*Director*" means the Director of Revenue and Taxation as described in §1102 of Chapter 1, Division I of Tide 11 of the Guam Code Annotated.

(h) Eligible Beneficiary, Person. An "*Eligible Beneficiary*" or a person eligible for a Certificate includes a Beneficiary or such person that may be a corporation, a Subchapter "S' Corporation as defined in §58131 of the QC Law, a "possessions" corporation as defined in §58106 of the QC Law, a partnership, a limited liability company as defined in the Guam Limited Liability Company Act, or a trust. An eligible Beneficiary under §§58127.6 or 58128.5 of the Hotel and Affordable Housing Development Law may be a developer, a contractor, or a subcontractor or a combination thereof. An eligible Beneficiary under §70107 of the Housing and Affordable Housing Development Law includes a lessor of lands, buildings or machinery to a Beneficiary of a QC and a seller of land or other real property to a developer of a hotel, tourist development or affordable housing.

(i) GEDA. "*GEDA*" means the Guam Economic Development Authority, created in Division 2 of Tide 12 of the Guam Code Annotated.

(j) GHC. "*GHC*" means the Guam Housing Corporation, created in Chapter 4 of Title 12 of the Guam Code Annotated.

(k) Hotel; Guest Room. "Hotel" means a building or buildings containing not less than two hundred (200) guest rooms open to the public as a place where transient persons can be accommodated for compensation. "*Guest room*" means a separate room containing at least one (1) bed to accommodate at least one (1) person within a hotel; *e.g.* a "twin" or "double" room with one (1) or two (2) beds within any one (1) room is one (1) guest room, while a suite with two (2) or three (3) or more separate bedrooms is two (2) or three (3) or more guest rooms, as the case may be; *provided*, that the suite is at least six hundred (600) square feet in area.

(l) Lease of Land, Buildings, Machinery or Equipment.
The *"lease of land, buildings, machinery or equipment",* for purpose of the tax rebate authorized in §70107(a) of the Hotel and Affordable Housing Development Law means the leasing to a Beneficiary of the land, buildings or equipment needed to operate the Beneficiary's hotel or tourist facility, and only one (1) such lease shall be recognized for each hotel or tourist facility.

(m) Materials. "*Materials*" for purpose of the tax exemptions authorized in §70105 of the Hotel and Affordable Housing Development Law mean things which become a physical part of the Qualified Project.

(n) QC. A "*QC*" is a qualifying certificate issued by the *I Maga'lahen Guahan* on the recommendation of GEDA which grants to the Beneficiary of such QC an

abatement, or rebate, or both, or an exemption from payment, of a portion or all of certain Guam taxes for stated periods of time. A QC issued under this Part is a QC with one (1) or more of the benefits authorized by the Hotel and Affordable Housing Development Law.

(o) Qualified Project. *A "Qualified Project"* is a project by a QC Beneficiary involving the construction and operation of a new hotel or tourist facility, or the expansion of an existing hotel.

(p) Supplies. "*Supplies*" for purpose of the tax exemptions authorized in §70105 of the Hotel and Affordable Housing Development Law mean things other than labor or supervision which are consumed in, but do become a physical part of the Qualified Project or Affordable Housing.

(q) Tourist Facility. A "*tourist facility*" means an improvement to land whose construction cost, *not* including the cost of the land, is not less than Five Million Dollars ($5,000,000). Such facility must offer to the public entertainment, amusement or other activities, all of which activities the Board must find beneficial to the development of the tourist industry.

(r) Architects, Engineers and Firms. "*Architects, Engineers and Firms*" means a registered Architect or Engineer, or an Architectural or Engineering Firm licensed to do business on Guam, who designs single family dwellings for a Qualified Project or Affordable Housing.

Relationship Between QC and Certificate.

Section 1.04. As provided in §2.05, *infra,* a contractor, supervisor or material supplier applies in his or its own name for a Certificate, which Certificate shall be issued an eligible applicant only when such applicant shall pass on to the QC Beneficiary the savings derived from the tax exemption authorized by the Certificate. The intent and purpose of the Hotel and Affordable Housing and Development Law are, among other things, to encourage the construction and operation of more hotels and tourist facilities on Guam, and therefore GEDA deems it both important and in the spirit of the law to insist that the benefits of the Certificate be passed on to the QC Beneficiary so as to lower such Beneficiary's cost of constructing its project. Accordingly, each recipient of a Certificate shall obtain from his or its outside accountant, or from an outside accountant retained for such purpose, such accountant's unqualified opinion that such tax savings as were obtained from the Certificate have been directly passed on to the QC Beneficiary without diminution, such opinion to be submitted no later than ninety (90) days after the end of the recipient's fiscal year.

CHAPTER 2.
APPLICATION FOR BENEFITS UNDER THE HOTEL AND AFFORDABLE HOUSING DEVELOPMENT LAW.

Application for a QC.

Section 2.01. To apply for a QC under the Hotel and Affordable Housing Development Law, an eligible Beneficiary shall file with GEDA the same documents and the same filing fee as in applying for a QC without the benefits of such law, as set out in the QC Law and in Part 1 of GEDA's QC rules and regulations. These include, but are not limited to, a completed and verified application on GEDA Form QC-1, if by any applicant except a shareholder, lessor or landowner, on GEDA Form QC-IS if by a shareholder, and on GEDA Form QC-IL is by a lessor or landowner, a completed and verified affidavit of compliance on GEDA Form QC-2, and an executed authorization on GEDA Form QC-3 permitting GEDA to release to the public non-proprietarv information about the application. On such QC-1 forms the applicant shall state the taxes for which rebates or abatements are sought, *i.e.*for rebate of income taxes under §§70109 or 59128.5; for abatement of gross receipt and use taxes under §70105; for rebate of income taxes on rental income under §70107(a); or for rebate of capital gain taxes under §70107(b).

Additional Information or Hotel or Tourist Facility Developer.

Section 2.02. In addition to the material required under §2.01, *supra,* an applicant for a QC for the operation of a hotel or tourist facility must advise GEDA on GEDA Form QC-8 whether such applicant intends to loan Five Million Dollars ($5,000,000) to GEDA's Housing Fund, pursuant to the Hotel and Affordable Housing Development Law, and if such loan is to be made, how the loan funds are to be transferred to the Housing Fund. The funds must be in U.S. currency and the loan thereof must be unrestricted and unconditional, *subject* only to the repayment within five (5) years as described in §70109 of the Hotel and Affordable Housing Development Law and in §2.06, *infra.*

Publication and Hearing of the Application for a QC Under the Hotel and Affordable Housing Development Law.

Section 2.03. Under the direction of GEDA, an applicant for a QC under the Hotel and Affordable Housing Development Law shall publish in a daily newspaper of general circulation on Guam no later than seven (7) days after filing its application, a resume of its application on GEDA Form QC-4, the same form as is used on other QC applications, and following publication thereof, GEDA shall, within a reasonable period of time, conduct a public hearing on the application in the manner prescribed by the Administrative Adjudication Law. The hearing officer, *unless* the chairman of the Board directors otherwise, shall be GEDA's administrator, who shall prepare for the Board a written report of such hearing, which hearing shall be held in the hearing, room of GEDA. GEDA, at the applicant's expense shall publish notice of such hearing in a daily newspaper of general circulation on Guam on GEDA Form QC-5 at least five (5), but not more than ten (10), days before such hearing. The number of days is calculated as follows:

> the day of the hearing is excluded and the preceding days are counted if they are complete twenty-four (24) hour days. *As an example,* if a hearing was scheduled for the

tenth (10th) of the month and the notice was published on the fifth (5th), the notice was invalid as being less than five (5) full days. At the hearing, the applicant shall state whether it intends to loan Five Million Dollars ($5,000,000) to GEDA's Housing Fund.

Additional Information on an **Affordable Housing Developer.**

Section 2.04. In addition to the material required under §2.01, *supra*, an applicant for a QC for the development of affordable housing must advise GEDA on GEDA Form QC-9, the selling price of its proposed affordable housing units; the maximum price under §1.03(a), *supra,* as authorized by HUD's current income limits as of the date of the QC application; the number of units to be constructed, which may not be less than twenty-five (25); building permit and construction drawings of the units as approved by the Department of Public Works. and if no approved drawings are available, conceptual plans setting out the subdivision or tract number, size of the units and the number of bedrooms per unit; the site(s) of the units and the legal description(s) of such site(s); if the applicant is not the contractor; the names of the contractor and subcontractors for the project; and the period of time it will take to construct the units covered by the application.

Application for a Certificate.

Section 2.05. A supplier of building materials or supplies, or a supplier for labor or supervision used in the construction of a Qualified Project may apply for a Certificate by filing a verified application on GEDA Form QC-10, which includes a certified estimate for the materials or services to be provided under the applicant's contract for the Qualified Project. Such application may be acted on by the Board without either a public hearing or the filing of a notice of application. Because the granting of such a Certificate is dependent upon a QC being issued to the developer of a hotel or tourist facility, the Board as a general rule shall schedule a hearing on the application for a Certificate at the same time it acts upon the application for the QC for such hotel or tourist facility. The fee to file such an application for a Certificate shall be One Hundred Fifty Dollars ($150.00).

Repayment of the Beneficiary's Loan to Housing Fund.

Section 2.06. Under the provisions of §70109 of the Hotel and Affordable Housing Development Law, GEDA shall repay to the QC Beneficiary thereunder which shall have made a Five Million Dollar ($5,000,000) loan to GEDA's Housing Fund, the full amount of such loan *without* interest thereon, within five (5) years after such loan shall have been deposited in the Housing Fund.

APPLICATION FORMS

Section 2.07. GEDA Forms QC-8, -9 and -10 are attached to these Rules and are incorporated herein.

APPROVED AS TO FORM:
Counsel for GEDA,

by /s/_____

STATEMENT BY AN APPLICANT FOR A QUALIFYING CERTIFICATE COVERING A HOTEL OR TOURIST FACILITY AS TO THE DEPOSIT OF FIVE MILLION DOLLARS IN THE HOUSING FUND.

Board of Directors,
Guam Economic Development Authority ("GEDA"),
GITC Building, Tamuning, Guam.

Please be advised that the undersigned applicant for a Qualifying Certificate covering a _____
[hotel or tourist facility]
project intends/does not intend to deposit Five Million Dollars ($5,000,000)
[strike out]

Currency into GEDA's Housing Fund, pursuant to §70109 of Chapter 70, Division 2, Title 12, Guam Code Annotated (the "Hotel and Housing Development Law").

If the undersigned makes such deposit it shall do by
_____,200___ by means of _____
[date bf deposit] ***[method of transfer of funds]***

The undersigned understands that such deposit must be unrestricted and unconditional, *subject* to the refund described in the Hotel and Housing Development Law.

Dated this _____ dav of _____200___.

_____
Applicant,

By _____
_____,president.

GEDA Form QC-8

TO: Board of Directors,
Guam Economic Development Authority ("GEDA"),
GITC Building, Tamuning, Guam.

FROM: _____, QC applicant.
[name of applicantl

INFORMATION ON AFFORDABLE HOUSING UNITS:

Pursuant to §2.04 of Chapter 2 of Part 3 of GEDA's rules (the "Rules") for issuing qualifying certificates ("QCs") under Public Law No. 23-135, the undersigned applicant for a QC for the development of affordable housing hereby advises GEDA with respect to its housing units the follows:

§1. **Price(s).** Selling price(s) of its units,

including the price of the land

thereunder: $_____ (Plan A)

$ _____ (Plan B),

$_____ (Plan C), etc.

§2. **Maximum price.** Maximum price

under §1.03 (a) of the Rules: $ _____.

§3. **Numbers.** Numbers of units: _____ (Plan A),

_____ (Plan B),

_____ (Plan C), etc.,

_____ Total.

(Must be not less than 25)

§4. **Drawings.** If construction drawings for the units have been approved by the Guam Department of Public Works, a copy of the same are submitted with this form. Otherwise, be advised as follows.

Unit size: _____ square feet, Plan A,

_____ square feet, Plan B,

_____ square feet, Plan C, etc.,

Lot size: _____ square feet, Plan A,

_____ square feet, Plan B,

_____ square feet, Plan C, etc.,

Bedrooms per unit: _____ Plan A

_____ Plan B

_____ Plan C, etc.

§5. ***Location.*** The units are located on Lot(s) No(s)_____, municipality of _____, Guam, containing an aggregate area of _____ square meters.

§6. ***Contractor, etc.*** If Applicant is not the contractor for the Project:

Name(s) of contractors and subcontractors:_____

_____

§7 ***Compliance of construction.*** The first increment of the Project, consisting of _____ units, will be completed on or before _____,20___.

Dated this _____ day of _____, 20___.

_____
Applicant.

by _____
_____, president.

GEDA Form QC-9

BEFORE THE

GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")

In the Matter of the Application for a Certificate of Exemption	)	Case No. _____
by	)	**APPLICATION FOR A CERTIFICATE OF EXEMPTION** [§70105 ***et seq.***, Chapter 70, Division 2, Title 12, Guam Code Annotated]
_____, doing business as _____,	)	
Applicant.	)	

GUAM, U.S.A.)
(ss.:
City of Hagåtña.)

In accordance with §70105, Chapter 70, Division 2, Title 12, Guam Code Annotated, and Part 3 of the Rules and Regulations of the Guam Economic Development Authority on the Issuance of Qualifying Certificates ("Rules"), _____, ("Applicant"), requests the issuance of a Certificate thereunder, and swears to the following:

ARTICLE 1

APPLICANT.

§1.01. ***Name of Applicant***. "_____" (It will conduct its business under the fictitious name of "_____".)

§1.02. ***Address and telephone number of principal Guam office***: _____, municipality of _____, Guam 969___;

telephone #: (671) _____-_____; fax #: (671) _____-_____; e-mail address: _____.

§1.03. ***Location of proposed hotel or tourist facility***: Lot(s) No(s). _____ and _____ (adjacent to _____), municipality of _____, Guam (the "Project").

§1.04. ***Name, address and telephone number of Applicant's attorney or other representative, if any:*** _____, _____, municipality of _____, Guam 969_____; telephone #: (671) _____-_____; fax #: (671) _____-_____.

ARTICLE 2

TYPE OF BUSINESS AND OWNERSHIP

§2.01. ***Tax structure***: Indicate whether Applicant is a corporation, a "Subchapter S" corporation, a partnership, a sole proprietorship, a limited liability company or a trust;

§2.02. ***Project for Which QC is Sought***: (Description of hotel or tourist facility eligible under §70105.)

_____

_____

_____.

§2.03. ***Work to be Performed for Project.*** Indicate whether Applicant is to be a building material supplier, or a supplier of labor or supervisor for construction of the Project:

_____

_____

_____.

ARTICLE 3

ESTIMATED MATERIALS OR SERVICES TO BE PROVIDED FOR THE PROJECT.

§3.01. ***Certified Estimate***: Applicant CERTIFIES that the following is an accurate estimate of the cost of the services or materials (exclusive of GRT), to be furnished by Applicant to the Project:

Material costs. . . . . $_____,

Equipment rental, if any . . . . . $_____,

Labor costs . . . . . $_____,

Supervision costs . . . . . $_____,

Other costs:

Overhead . . . . . $_____,

Profit . . . . . $_____,

Total estimated costs (GRT not included): .. . . $_____.

§3.01. *Tax Savings.*

Amount of gross receipts

tax on foregoing estimate . . . . . $_____.

Supply contract amount ***without***

Certificate . . . . $_____.

Supply contract amount ***with***

Certificate . . . . $_____.

ARTICLE 4

ADDITIONAL INFORMATION.

§4.01. ***QC Information***: Name of QC holder or Applicant for QC Project _____. QC number if issued: No. _____; if not issued, GEDA Case No. _____.

§4.02. ***Articles, etc.*** A copy of Applicant's articles of incorporation, articles of partnership, trust indenture or limited liability company agreement, and appropriate business or professional license as the case may be, attached as an exhibit.

§4.03. ***Contract.*** A copy of the signed contract showing the contract amount, construction time-line and draw down schedule.

ARTICLE 5

CONCLUSION.

§5.01. ***Entitlement***. [Brief summary of why Applicant's work on the Project qualifies for a Certificate].

_____

_____

_____.

§5.02. ***Request for Certificate***: On the basis of the information presented in this application, Applicant requests the issuance of a Certificate by GEDA, exempting the proceeds derived by Applicant from its contract for the Project from the tax imposed by Article 2 of the Business Privilage Tax Law.

Execution.

EXECUTED this ___ day of _____.

_____,
Applicant,

by_____,
_____, duly
authorized representative.

SUBSCRIBED and SWORN to before me this _____ day of _____ _____.

)SEAL(_____

IV. Public Law 23-135

PUBLIC LAW NO. 23-135

Bill No. 606 (LS)
Date Became Law: January 1, 1997
Governor's Action: Approved

Introduced by:
J.T. San Agustin
J. P. Aguon
F. E. Santos
A. C. Blaz

AN ACT TO AMEND §§70101, 70102, 70103, 70104, 70105, 70106, 70107, 70108 AND 70109 OF, CHAPTER 70, TITLE 12, GUAM CODE ANNOTATED, TO ENCOURAGE THE DEVELOPMENT OF ADDITIONAL HOTELS AND TOURIST FACILITIES, AND THE CONSTRUCTION OF AFFORDABLE HOUSING; AND TO AMEND §§58104 SUBITEM 8, 58105.4 AND 58143 OF TITLE 12, GUAM CODE ANNOTATED, AND TO ADD TO SAID ARTICLE NEW §§58127.6 AND 58128.5 TO AUTHORIZE THE ISSUANCE OF QUALIFYING CERTIFICATES TO DEVELOPERS OF AFFORDABLE HOUSING.

Section 1 …	§70101 of Title 12, Guam Code Annotated is amended.
Section 2 …	§70102 of Title 12, Guam Code Annotated is amended.
Section 3 …	§70103 of Title 12, Guam Code Annotated is amended.
Section 4 …	§70104 of Title 12, Guam Code Annotated is amended.
Section 5 …	§70105 of Title 12, Guam Code Annotated is amended.
Section 6 …	§70106 of Title 12, Guam Code Annotated is amended.
Section 7 …	§70107 of Title 12, Guam Code Annotated is amended.
Section 8 …	§70108 of Title 12, Guam Code Annotated is amended.
Section 9 …	§70109 of Title 12, Guam Code Annotated is amended.
Section 10 …	Legislative findings and intent.
Section 11 …	Amendments to GEDA Law. (a) §58104 subitem 8 of Chapter 58, Title 12, Guam Code Annotated is amended. (b) §58105.4, Chapter 58, Title 12, Guam Code Annotated is amended. (c) §58143, Title 12, Guam Code Annotated is amended.
Section 12 …	Additions to GEDA Law. (a) A new §58127.6 is added to Chapter 58, Title 12, Guam Code Annotated. (b) A new

§58128.5 is added to Chapter 58, Title 12, Guam Code Annotated.

Section 13 … Severability.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. §70101 of Chapter 70 Title 12, Guam Code Annotated, is hereby amended to read:

"**§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."

Section 2. §70102 Chapter 70, Title 12, Guam Code Annotated, is hereby amended to read:

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

Section 3. §70103 Title 12, Guam Code Annotated, is hereby amended to read as follows:

"**§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."

Section 4. §70104 of Chapter 70, Title 12, Guam Code Annotated is hereby amended to read as follows:

"**§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 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."

Section 5. §70105 of Chapter 70, Title 12, Guam Code Annotated, is hereby amended to read:

"**§70105. Business Privilege and Use Tax exemptions.** 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, shall be exempt from the tax imposed under Subchapter B 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 effective date of this Article or when the building permit for the project is issued, whichever first occurs. The exemptions authorized by this section shall be for a period not to exceed twenty-four (24) months, extendable, for cause, by the Board, for an additional period of up to twenty-four (24) months. 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 of a

new hotel or tourist facility or the expansion of an existing hotel. 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 Subchapter B 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 facility, for a similar period."

Section 6. §70106 of Chapter 70, Title 12, Guam Code Annotated, is hereby amended to read:

"**§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."

Section 7. §70107 of Chapter 70, Title 12, is hereby amended to read:

"**§70107. (a) Tax rebates on certain rental income.** 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 a hotel or tourist facility covered by the provisions of this Article 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 (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 certain capital gains. A rebate of up to fifty percent (50%) on all capital gain income taxes paid on income derived from the sale of land or other real property to a developer of a hotel or tourist facility covered by the provisions of this Article; provided, that an application of such rebate is made within the effective period(s) of this Article, as set out in §70108, infra."

Section 8. §70108 of, Title 12, Guam Code Annotated, is **hereby amended to read.**

"§70108. "***Sunset***" **provision.** This Article shall take effect on its approval by the Governor and shall remain in effect for twenty-four (24) months thereafter, 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 for an additional, twenty-four (24) months by adopting a resolution to such effect prior to the expiration of the first twenty-four (24) month period; and provided further, that any Qualifying Certificate issued for a period in excess of twenty-four (24) month periods shall remain in full force and effect until its term expires or it is canceled on other grounds. The tax rebate on capital gains authorized by §70107 of this Article is available for any tax year of the Beneficiary any part of which falls within the twenty-four (24) month periods in which this Article is in effect."

Section 9. §70109 of, Title 12, Guam Code Annotated, is hereby amended to read as follows:

"§70109. (a) Increase in benefits to developers who make funds available for affordable housing. In order to initiate the immediate construction of affordable housing in Guam, the Board is authorized to recommend to the Governor and the Governor is authorized to issue a qualifying certificate to each of those developers of hotels or tourist facilities which qualify therefore 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 therefor.

(b) Cash advances 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 advance to the affordable housing fund to be established by the Corporation (the "Housing Fund") the sum of Five Million Dollars ($5,000,000). The applicant shall make such advance to the Housing Fund contemporaneously with the issuance of the qua@g certificate by the Governor. Such advance shall be returned to the applicant without interest, as provided in subparagraph (c), *infra*. Until such advance is returned to the Beneficiary, any interest accrued thereon while the advance is in the Housing Fund shall become the property of the Housing Fund.

(c) Housing subdivisions. The Corporation shall establish on its books, separate and apart from its other funds, the Housing Fund described in subparagraph (b), *supra*. Utilizing the monies in the Housing Fund, the Corporation, working in cooperation with the Guam Housing corporation' ("GHC"), shall design and develop affordable housing subdivisions and tracts, choose contractors therefor, construct affordable homes thereon, and sell affordable homes so constructed to those buyers qualified by GHC which shall process the sales applications, prepare for execution the necessary deeds and mortgages, and disburse any funds made available to it from the Housing Fund by the Corporation. GHC shall endeavor to obtain permanent "*take out* " financing consisting of long-term affordable mortgages on the homes so constructed by the Corporation, and on the purchase and assignment of the original mortgages to a permanent mortgagee, GHC shall return to the Housing Fund such sale proceeds. In turn, the Corporation shall, within sixty (60) days after receiving the sales proceeds from the assignment of its mortgages, repay the Beneficiary as much of its Five Million Dollar ($5,000,000) advance as such repayment permits and shall continue so reimbursing the Beneficiary until such advance is repaid in full, without interest.

(d) Applicability of other provisions of the QC Law. The provisions of, Title 12, Guam Code Annotated, Chapter 58 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, trust or partnership 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 who 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 advance 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 advance, and receive 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 affordable housing development, by utilizing as few contractors, architects and engineers as possible, by using the minimum number of designs for two-bedroom, three-bedroom and four-bedroom homes, and by utilizing modem modular construction techniques so as both to speed the construction and lower its cost."

Section 10. Legislative findings and intent. The Legislature finds that despite the burgeoning Guam economy, or perhaps because of the inflation brought about by such an active economy, all too many local residents are unable to affirm safe, sanitary and decent housing, and the dearth of affordable single-family homes is threatening the fulfillment by many residents of the "American Dream" - a home of their own. The Legislature further finds that the action taken in the past to encourage various enterprises to invest in Guam by issuing them Qualifying Tax Certificates ("QCs") has worked out quite beneficially for the territory, there being hundreds of jobs and new enterprises in Guam that would not be here were it not for this QC program. The Legislature, therefore, in view of the foregoing findings, declares that the intention of the next two sections of this act is to encourage developers to construct affordable housing in Guam by issuing them QCs pursuant to the GEDA Law.

Section 11. Amendments to GEDA Law. (a) §58104 of, Title 12, Guam Code Annotated, is hereby amended by amending subitem 8 thereof to read as follows:

"8. Improvement of real property by constructing and selling affordable housing thereon, and for other purposes which are specifically determined by the Authority to be beneficial, desirable, and necessary for the economic development of Guam;"

(b) §58105.4 of, Title 12, Guam Code Annotated, is hereby amended to read as follows:

"**§58105.4. Affordable housing and needed facilities.** Creation of affordable housing or other vitally needed facilities; or"

(c) §58143 of, Title 12, Guam Code Annotated, is hereby amended by inserting a new line entitled "Construction of affordable housing to read as follows:

"Construction of affordable housing $750.00 $1,000.00"

Section 12.. Additions to GEDA Law. (a) New §58127.6 is hereby added to Title 12, Guam Code Annotated, to read as follows:

"**§58127.6. Development of affordable housing.** All taxes levied by virtue of Article 2, Chapter 26, Title 11, Guam Code Annotated, known as gross receipts taxes, shall be abated for a period up to twenty (20) years from the effective date of the Qualifying Certificate therefor, for those gross receipts derived from the construction of affordable housing; provided, that a Qualifying Certificate for such a tax abatement is granted pursuant to the provisions of this subsection, The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the receipts the subject of the abatement are derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."

(b) New §58128.5 is hereby added to Title 12, Guam Code Annotated, to read as follows:

"**§58128.5. One hundred percent rebate on income from constructing affordable housing.** A rebate of one hundred percent (100%) of all income tax paid to the government of Guam by a Beneficiary on income received from the construction of affordable housing in Guam may be issued for a period not to exceed twenty (20) consecutive years from the effective date of a Qualifying Certificate therefor. The Beneficiary may be a developer, contractor or subcontractor or a combination of two (2) or more thereof so long as all the income the subject of the rebate is derived from the construction of no less than twenty-five (25) affordable housing units, as "affordable housing" is defined by the Authority."

Section 13. Severability. If any of the provisions of this act, or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

NOTE: Guam Economic Development Authority or GEDA located in Title 12, Guam Code Annotated has undergone recent recodification. The entire Chapter 2 on GEDA was recently recodified onto the latter part of Title 12, GCA and as a result of this change, all sections of this public Law p g to GEDA has also been recodifled. Another change that occurred in this public law refer to Section 12. A typographical error was noted and corrected in the first paragraph. It seems that a (c) was used at the beginning of this paragraph, when it should actually read (a). Also, in order to get a better understanding of what happened to GEDA in Title 12, GCA Chapter 2, please refer to the **NOTE:** located in Title 12, GCA Chapter 50. Amended by the Compiler of Laws in order to reflect the correct citation.

V. Applications Forms

QC-1 **Application for a Qualifying Certificate by a Corporation**

QC-2 Affidavit of Corporate Applicant for a Qualifying Certificate on Compliance with the QC LaQC-3 Authority to Release Non-Proprietarial Information

QC-4 **Notice of an Application for a Qualifying Certificate before the Guam Economic Development Authority**

QC-5 **Notice of a Public Hearing on an Application to the Guam Economic Development Authority for a Qualifying Certificate Authorizing the Abatement and Rebate of Certain Guam Taxes**

QC-6 **Information to be made available at a Public Hearing**

QC-9 **Information on Affordable Housing Units**

QC-10 **Application for a Certificate of Exemption**

Qualifying Certificate Review Process – Fee Schedule

Required Information for Q.C. Process

BEFORE

THE

GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")

In the Matter of the Application for a Qualifying Certificate by _____, a corporation, doing business as _____, Applicant.	))))))))))	Case No. _____ **APPLICATION FOR A QUALIFYING CERTIFICATE BY A CORPORATION,** [§58104 ***et seq.***, Title 12, Guam Code Annotated]

In accordance with Article 4, Chapter 58, Title 12, Guam Code Annotated (the "QC Law"), _____, a Guam corporation ("Applicant"), requests the issuance of a Qualifying Certificate ("QC") thereunder, and submits the following:

ARTICLE 1

APPLICANT

§1.01. ***Name of Applicant***. "_____" (It will conduct its business under the fictitious name of "_____".)

§1.02. ***Address and telephone number of principal Guam office***: _____, municipality of _____, Guam 969___; telephone #: (671) _____-_____.

§1.03. ***Location of Project***: Lot(s) No(s). _____ and _____ (adjacent to _____), municipality of _____, Guam (the "Project").

§1.04. ***Name, address and telephone number of Applicant's attorney or other representative, if any:*** _____, _____, municipality of _____, Guam 969____; telephone #: (671) _____-_____; fax #: (671) _____-_____.

ARTICLE 2

TYPE OF BUSINESS AND OWNERSHIP

§2.01. ***Corporate tax structure***: Indicate whether Applicant is a so-called "Subchapter S" corporation.

§2.02. ***Business for which QC is sought***:

_____

_____

_____.

§2.03. ***Names, addresses, and ownership percentages:***

Names of Shareholders:	***Addresses:***	***% of share ownership***:
_____,	_____,	_____%,
_____,	_____,	_____%,
_____,	_____,	_____%,
_____,	_____,	_____%,
_____,	_____,	_____%,
_____,	_____,	_____%
		$100%.

ARTICLE 3

FUNDS TO BE INVESTED IN THE PROJECT

§3.01. ***Amounts by category***:

Categories:	***Amounts:***
Construction costs	$_____,
Land acquisition costs.	$_____,
Equipment, furniture and fixtures.	$_____,
Pre-opening expenses.	$_____,
Working capital.	$_____,
Other costs (detail):	
_____	$_____,
_____	$_____,
_____	$_____,
Total estimated costs:	$_____.
Amount from shareholders	$_____,
Amount to be financed.	$_____,
Total	$_____.

ARTICLE 4

SUPPLEMENTAL FORMS AND DOCUMENTS

§4.01. ***Balance sheet(s) of principal(s)***: Recent balance sheet(s) of Applicant's principal shareholder(s) _____, _____, and _____. Attached as Exhibits 1-A, 1-B and 1-C.

§4.02. ***Business plan***: A comprehensive business plan covering Applicant's Project, including income projections and forecasts as appropriate, demonstrating, with as much detail as Applicant believes is necessary, the soundness and feasibility of the Project. Attached as Exhibit 2.

§4.03. ***Corporate documentation***: Certified copies of Applicant's articles of incorporation, bylaws, and corporate charter. Attached Exhibits 3-A, 3-B and 3-C.

§4.04. ***Affidavit of compliance***: Affidavit of compliance with the QC Law on or following GEDA Form QC-2. See Exhibit 4.

ARTICLE 5

LAND FOR PROJECT

§5.01. ***Project's area***: The land for the Project as described in §1.03, ***supra***, contains an area of _____ (_____) square meters, or _____ (_____) square feet. See the map attached hereto as Exhibit 5.

§5.02. ***Approximate value excluding improvements***: _____ Dollars ($_____), based on a unit value of _____ Dollars ($_____) per square meter.

§5.03. ***Tenure***: Applicant holds or will hold the land in fee simple/leasehold.

§5.04. ***Annual rental, if any***: _____.

ARTICLE 6

BUILDINGS

§6.01. ***Numbers and types of buildings and improvements to be used in the Project, with approximate floor spaces, if known:***

_____

_____

_____

_____

_____

_____

§6.02. ***Cost***: Approximately _____ Dollars ($_____). See §3.01, ***supra***.

§6.03. ***Annual rental if any***: _____.

ARTICLE 7

SERVICES

§7.01. ***Description of services and goods to be offered to the public on the Project's completion***:

_____

_____

_____

_____

If it is determined that the Project will make considerable demands on Guam's utility infrastructure, will Applicant be willing to contribute to such infrastructure?

_____

_____

_____

_____

§7.02. ***Estimated annual sales of such goods and services at contemplated rate of operations***: _____ Dollars ($_____) (***first full year***); _____ Dollars ($_____) (***fifth year***).

ARTICLE 8

EMPLOYEES

§8.01. ***Anticipated total number of employees***: _____ (____) full-time employees, _____ (____) part-time.

§8.02. ***Annual gross payroll***: _____ Dollars ($_____) (***fifth year***).

§8.03. ***Classification of proposed payroll for the first (1st) year of operations:***

Classification:	***Number:***	***Annual gross payroll:***
_____ department,	_____,	$_____,
_____ department,	_____,	$_____,
_____ department,	_____,	$_____,
_____ department,	_____,	$_____,
_____ department,	_____,	$_____,
Total:	_____,	$_____.

§8.04. ***Analysis of nationality of proposed total number of employees after first (1st) year of operations*:**

Citizens or permanent residents of the United States: _____.

Aliens: _____.

ARTICLE 9

BUSINESS REFERENCES

§9.01. ***Names and addresses of three (3) business references***:

Names:	***Addresses:***
1. _____,	_____,
2. _____,	_____,
3. _____,	_____.

ARTICLE 10

CONCLUSION

§10.01. ***Entitlement***: [Brief summary of why Applicant's Project qualifies for a QC].

_____

_____

_____

_____

_____

§10.02. ***Request for QC***: On the basis of the information presented in this application and the accompanying exhibits, Applicant requests for the issuance of a QC by the Governor of Guam, upon the recommendation of GEDA, granting to Applicant the tax relief provided by §§58127.1 ***et seq.*** and 58128, Chapter 58 of Title 12 of the QC Law, as follows:

Nature of tax:	***Periods requested:***	***Percentages requested:***
Corporate income tax,	_____ (___) years,	_____ percent (__%),
Corporate dividend tax,	_____ (___) years,	_____ percent (__%),
Real property tax,	_____ (___) years,	_____ percent (__%).

Execution

EXECUTED this ___ day of _____, _____.

_____,
Applicant,

by_____,
_____, duly
authorized representative.

TERRITORY OF GUAM,)
(ss.:
City of Agaña.)

On this ____ day of _____, _____, before me, a notary public in and for the territory of Guam, personally appeared _____, known to me to be the duly authorized representative of _____, who executed the foregoing application, and he acknowledged to me that such corporation executed the same.

WITNESS my hand and official seal.

_____,)SEAL(

AFFIDAVIT OF CORPORATE APPLICANT FOR A QUALIFYING CERTIFICATE ON COMPLIANCE WITH THE QC LAW

TERRITORY OF GUAM,)
(ss.:
City of Agaña.)

_____, being first duly sworn, states that he is the duly authorized representative of _____, a Guam corporation ("Applicant"), which is applying for a Qualifying Certificate ("QC") under the provisions of Chapter 58, Title 12, Guam Code Annotated (the "QC Law"), and that:

§1. *Fringe benefits*. The following fringe benefits will be given to all those employees of Applicant which are employed on the Project for which the QC is sought:

_____

_____

_____

_____

§§58116 through 58120, QC Law.

§2. *Transfer of benefits of QC*: GEDA's permission will be sought *prior* to any transfer of (i) a majority of the voting stock of Applicant or (ii) a substantial part of Applicant's assets by way of lease, sale, assignment or other transfer; either of which constitutes a transfer of the benefits of the QC.

§58121, QC Law.

§3. *Commencement of Applicant's operations*: Applicant's QC Project will be completed and its services or goods will be available in Guam within _____ (____) months from the date of execution by the Governor of Applicant's QC.

§4. *No conflicts of interest*: No (i) GEDA employee or board member, (ii) member of the Legislature, (iii) full-time employee of the executive branch of the government of Guam from the level of first assistant to the agency head and up (iv) employee of the Governor's office, (v) judge of any of the courts of Guam, nor (vi) the spouse of any of the foregoing, has any financial interest, direct or indirect, in Applicant.

§58115, QC Law.

§5. *Monthly reports*. Applicant shall furnish GEDA monthly reports, beginning thirty (30) days after the date of the issuance of its QC. GEDA agrees that such monthly reports shall be confidential and shall be limited to the following:

5.1. *Prior to commencement of operations*:

5.1.1. *Construction*. Status of construction, including whether construction has been delayed, and if so, why and for how long;

5.1.2. *Hiring*. Status of employee hiring and training, including current number of employees; and

5.1.3. *Equipment*. Status of any necessary equipment acquisition, and whether such acquisition, if delayed, will delay commencement of operation, and if so, why and for how long.

5.2. *After commencement of operations*:

5.2.1. *Income*. Gross income, and if a hotel, its occupancy rate and current number of guest rooms;

5.2.2. *Employees*. Number of employees and total gross payroll, broken down into all job titles, with rates of pay, with identification of all employees not citizens or permanent residents of the United States;

5.2.3. *Taxes*. Total taxes paid to the government of Guam;

5.2.4. *Dividends*. Dividends or other payments made to Applicant's shareholders; and

5.2.5. *Fees*. If a hotel, total management fee paid, if any.

§58123, QC Law.

DATED this ___ day of _____, 200__.

_____,
Applicant,

by_____,

_____, applicant.

SUBSCRIBED and SWORN to before me, a notary public, this ____ day of _____, 200___.

_____,)SEAL(

Notary public in and for the territory
of Guam. My commission expires:
_____.

TO: GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")
ITC BUILDING - SUITE 911
590 SOUTH MARINE DRIVE
TAMUNING, GUAM 96911

FROM: _____, QC applicant.

AUTHORITY TO RELEASE NON-PROPRIETARIAL INFORMATION

The undersigned hereby authorizes GEDA to disclose non-confidential and non-proprietarial information respecting the undersigned's application for a Qualifying Certificate. GEDA agrees that the determination as to whether information is confidential or proprietarial is to be made exclusively by the undersigned.

_____,
Applicant,

by_____, _____, _____.
(Print Name) (Title) (Date)

NOTICE OF AN APPLICATION BY A
FOR A QUALIFYING CERTIFICATE
BEFORE THE
GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")

PLEASE TAKE NOTICE that:

§1. ***Filing of application***. _____,
[name of Applicant]

(the "Applicant"), has filed its application with GEDA for a Qualifying Certificate ("QC") under Article 4, Chapter 2, Title 12, Guam Code Annotated (the "QC Law").

§2. ***Address***. The address of Applicant is _____,
[district or village]
municipality of _____, Guam 969____.
[municipality] ***[zip]***

§3. ***Proposed investment***. Applicant intends to invest approximately

$_____ to _____ located
[estimated total] ***[description of QC project]***

at Lot(s) number(s) _____, municipality of _____, Guam.

§4. ***Benefits sought***. Applicant is applying, pursuant to the QC Law, for a rebate

of _____% of income taxes payable to the government of Guam for a Guam for a
[***percentage***]
period of _____ years, and for an abatement of _____% of the real property tax due on the
[number] ***[percentage***]
property discussed in §2 above for a period of _____ years.

[number]

§5. ***Shareholders***. The names and addresses of the shareholders of Applicant are as follows:

Names:	***Addresses:***
_____,	_____, _____, _____,
_____,	_____, _____, _____.

etc.

NOTICE OF A PUBLIC HEARING ON AN APPLICATION TO THE GUAM ECONOMIC DEVELOPMENT AUTHORITY ('GEDA") FOR A QUALIFYING CERTIFICATE AUTHORIZING THE ABATEMENT AND REBATE OF CERTAIN GUAM TAXES

PLEASE TAKE NOTICE that:

§1. ***Public hearing***. In accordance with Article 4, Chapter 2, Title 12, Guam Code Annotated (the "QC Law"), and pursuant to the rule-making procedures of the Administrative Adjudication Law, GEDA will conduct a public hearing at GEDA's conference room, ITC Building, 9th Floor, Tamuning, Guam, on _____, ***[day of week]*** _____ 200____ at _____.m. on the application of _____, ***[date]*** ***[time]*** ***[name of applicant]*** Applicant, for a Qualifying Certificate ("QC"), which request is for tax relief by way of abatement and rebate of Guam taxes in consideration of Applicant _____ [***Applicant's*** _____, all pursuant to the QC Law, and as set out ***QC project***] in Applicant's application for a QC.

§2. ***Nature of hearing***. This hearing shall be open to the public. Oral or written statements will be received from anyone wishing to testify thereat, which statement will be incorporated into the records of the hearing.

§3. ***Further information***. For further information, please contact GEDA's Administrator at 647-4332, or at the GEDA offices on the fifth floor, ITC Building, Tamuning, Guam.

INFORMATION TO BE MADE AVAILABLE AT
A PUBLIC HEARING BEFORE THE
GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")
ON AN APPLICATION FOR A QUALIFYING CERTIFICATE ("QC")

§1. ***Construction, if appropriate***: Description of buildings with renderings. Construction schedule, including estimated dates for groundbreaking and opening.

§2. ***Description of Project***: Overview with some detail of the project or business for which the QC is sought.

§3. ***Budget***: Include equity contribution, amount to be financed, source of financing, and anticipated return on investment.

§4. ***Employees***: Include number of full-time and part-time employees, and the percentage of which are U.S. citizens or permanent residents. Estimate the first year's payroll, and the payroll after five years.

§5. ***Benefits to Guam***: Estimated total tax revenue from Applicant's project or business to the government of Guam over the first five years, broken down into corporate income tax, real property tax, hotel occupancy tax, gross receipts tax, employee income tax, and use tax.

§6. ***Benefits to Applicant***: Description of total of QC benefits over first five years, broken down into income tax rebates, dividend tax rebates, if any, and property tax abatements. Give the estimated year in which Applicant will begin to enjoy the income tax rebates.

TO: Board of Directors,
Guam Economic Development Authority ("GEDA"),
GITC Building, Tamuning, Guam.

FROM: _____, QC applicant.
[name of applicantl

INFORMATION ON AFFORDABLE HOUSING UNITS:

Pursuant to §2.04 of Chapter 2 of Part 3 of GEDA's rules (the "Rules") for issuing qualifying certificates ("QCs") under Public Law No. 23-135, the undersigned applicant for a QC for the development of affordable housing hereby advises GEDA with respect to its housing units the follows:

§1. **Price(s).** Selling price(s) of its units,

including the price of the land

thereunder: $_____ (Plan A)

$ _____ (Plan B),

$_____ (Plan C), etc.

§2. **Maximum price.** Maximum price

under §1.03 (a) of the Rules: $ _____.

§3. **Numbers.** Numbers of units: _____(Plan A),

_____ (Plan B),

_____ (Plan C), etc.,

_____ Total.

(Must be not less than 25)

§4. **Drawings.** If construction drawings for the units have been approved by the Guam Department of Public Works, a copy of the same are submitted with this form. Otherwise, be advised as follows.

Unit size: _____ square feet, Plan A,

_____ square feet, Plan B,

_____ square feet, Plan C, etc.,

Lot size: _____ square feet, Plan A,

_____ square feet, Plan B,

_____ square feet, Plan C, etc.,

Bedrooms per unit: _____ Plan A

_____ Plan B

_____ Plan C, etc.

§5. ***Location.*** The units are located on Lot(s) No(s) _____, municipality of _____, Guam, containing an aggregate area of _____ square meters.

§6. ***Contractor, etc.*** If Applicant is not the contractor for the Project:

Name(s) of contractors and subcontractors:_____

_____

§7 ***Compliance of construction.*** The first increment of the Project, consisting of _____ units, will be completed on or before _____,20___.

Dated this _____ day of _____, 20___.

_____
Applicant.

by _____
_____, president.

BEFORE THE

GUAM ECONOMIC DEVELOPMENT AUTHORITY ("GEDA")

In the Matter of the Application for a Certificate of Exemption	)	Case No. _____
by	)	**APPLICATION FOR A CERTIFICATE OF EXEMPTION**
_____, doing business as _____,	)	[§70105 ***et seq.***, Chapter 70, Division 2, Title 12, Guam Code Annotated]
Applicant.	)	

GUAM, U.S.A.)
(ss.:
City of Hagåtña.)

In accordance with §70105, Chapter 70, Division 2, Title 12, Guam Code Annotated, and Part 3 of the Rules and Regulations of the Guam Economic Development Authority on the Issuance of Qualifying Certificates ("Rules"), _____, ("Applicant"), requests the issuance of a Certificate thereunder, and swears to the following:

ARTICLE 1

APPLICANT.

§1.01. ***Name of Applicant***. "_____" (It will conduct its business under the fictitious name of "_____".)

§1.02. ***Address and telephone number of principal Guam office***: _____, municipality of _____, Guam 969___; telephone #: (671) _____-_____; fax #: (671) _____-_____; e-mail address: _____.

§1.03. ***Location of proposed hotel or tourist facility***: Lot(s) No(s). _____ and _____ (adjacent to _____), municipality of _____, Guam (the "Project").

§1.04. ***Name, address and telephone number of Applicant's attorney or other representative, if any:*** _____, _____, municipality of _____, Guam 969_____; telephone #: (671) _____-_____; fax #: (671) _____-_____.

ARTICLE 2

TYPE OF BUSINESS AND OWNERSHIP

§2.01. ***Tax structure***: Indicate whether Applicant is a corporation, a "Subchapter S" corporation, a partnership, a sole proprietorship, a limited liability company or a trust;

§2.02. ***Project for Which QC is Sought***: (Description of hotel or tourist facility eligible under §70105.)

_____

_____

_____

_____

__.

§2.03. ***Work to be Performed for Project.*** Indicate whether Applicant is to be a building material supplier, or a supplier of labor or supervisor for construction of the Project:

_____

_____

_____

ARTICLE 3

ESTIMATED MATERIALS OR SERVICES TO BE

PROVIDED FOR THE PROJECT.

§3.01. ***Certified Estimate***: Applicant CERTIFIES that the following is an accurate estimate of the cost of the services or materials (exclusive of GRT), to be furnished by Applicant to the Project:

Material costs. . . . . $_____,

Equipment rental, if any . . . . . $_____,

Labor costs . . . . . $_____,

Supervision costs . . . . . $_____,

Other costs:

Overhead . . . . . $_____,

Profit . . . . . $_____,

Total estimated costs (GRT not included): .. . . $_____.

§3.01. *Tax Savings.*

Amount of gross receipts

tax on foregoing estimate . . . . . $_____.

Supply contract amount ***without***

Certificate . . . . $_____.

Supply contract amount ***with***

Certificate . . . . $_____.

ARTICLE 4

ADDITIONAL INFORMATION.

§4.01. ***QC Information***: Name of QC holder or Applicant for QC Project _____. QC number if issued: No. _____; if not issued, GEDA Case No. _____.

§4.02. ***Article, etc.*** A copy of Applicant's articles of incorporation, articles of partnership, trust indenture or limited liability company agreement, and appropriate business or professional license as the case may be, attached as an exhibit.

§4.03. ***Contract.*** A copy of the signed contract showing the contract amount, construction time-line and draw down schedule.

ARTICLE 5

CONCLUSION.

§5.01. ***Entitlement***. [Brief summary of why Applicant's work on the Project qualifies for a Certificate].

_____

_____

_____

. §5.02. ***Request for Certificate***: On the basis of the information presented in this application, Applicant requests the issuance of a Certificate by GEDA, exempting the proceeds derived by Applicant from its contract for the Project from the tax imposed by Article 2 of the Business Privilage Tax Law.

Execution.

EXECUTED this ___ day of _____.

_____,
Applicant,

by_____,
_____, duly
authorized representative.

SUBSCRIBED and SWORN to before me this _____ day of _____

)SEAL(_____

QUALIFYING CERTIFICATE REVIEW PROCESS
Fee Schedule

The information provided below reflects estimates of the charges which you are likely to incur as a Special Qualifying Certificate applicant.

ITEMS PAYABLE IN CONNECTION WITH Q.C. PROCESS:		**AMOUNT**
001	Q.C. Application Fee	$ *
002	Notice of Application	$ N/A
003	Notice of Public Hearing	$ N/A
004	Rental Rate for Public Hearing ($80/day)	$ N/A
005	Certificate Preparation/Legal Review ($200/hr - Averages to approximately $1500)	$ N/A
	Total Fees	**$**

Note:
* See: GEDA's Rules Part 1, Sec. 11 *Fees* and Sec. 9.01 of GEDA's Trust Rules

The QC Application Fee and Rental for Public Hearing Fee, when applicable, are payable upon submittal of application to GEDA.

The undersigned acknowledges receipt of the above Fee Schedule completed by the Authority.

Applicant_____ Date_____

GEDA Rep.:_____

Required Information for Q.C. Process

1. QC-1 Completed Application.
2. QC-2 Completed Affidavit of Compliance.
3. QC-3 Signed Authority to Release Non-Proprietary Information.
4. Filing Fee (see Schedule).
5. Financial (may be included in QC-1 or as Attachment).
    - Amount to be Invested. - Local depository if money is from off-island.
    - Amount of Risk (Shareholders, Corporation).
    - Financial Statements and Corporate Tax Returns - signed (last 3 years).
    - Financial Statements and Personal Tax Returns of Principals - signed (last 3 years).
    - Certified Copies of Articles of Incorporation, Partnership Agreement, Trust Agreement as filed with Government of Guam.
    - Names of owners, including addressed, % of ownership & amount invested or to be invested.
    - Business Plan
        - No. of full-time/part-time employees.
        - Employee Benefits Package
        - Project Description
        - Direct and in-direct impacts to industry and community
        - Market Analysis
        - Company portfolio, objectives, goals.
    - Description of land, Applicant's title thereto, & any recorded maps.

The date when ALL of the above have been received constitutes the actual Filing Date for calculation of time to publish Brief Resume.