


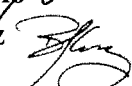


2011 JUL -6 AM 10:00 E102

I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) REGULAR SESSION

Bill No. 261 ^{cor} -31 ()

Introduced by:

Chris M. Duenas 
V.A. Ada 
R.J. Respicio 
B.J.F. Cruz 

AN ACT TO PROVIDE THE DEPARTMENT OF YOUTH AFFAIRS WITH THE AUTHORITY TO ENTER INTO A LEASE OF ITS TALOFOFO PROPERTY FOR THE PURPOSE OF UTILIZING THE LEASEHOLD PAYMENTS AS A SOURCE FOR THE REPAYMENT OF FUNDS BORROWED TO DESIGN, CONSTRUCT, AND EQUIP ITS NEW FACILITY; AND, TO ADD A *NEW* ARTICLE 3 TO CHAPTER 20, TITLE 19, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE “*DEPARTMENT OF YOUTH AFFAIRS FACILITY FUND*”.

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

2 **Section 1. Legislative Intent.** The Department of Youth Affairs (DYA) is in dire need of
3 a new facility to accommodate the clients it currently houses, as well as to provide a safe and
4 rehabilitative environment for both status and non-status offenders. It is the intent of *I Liheslaturan*
5 *Guåhan* to provide the Department with the authority to seek out potential individuals or companies
6 that would be interested in leasing their property in Talofofò. The leasehold payments would then be
7 a source of payment for the financing the design and construction of a new facility on its Mangilao
8 footprint. It is also the intent of *I Liheslaturan Guåhan* that DYA makes every effort to seek
9 financing from appropriate sources, such as the U.S Department of Agriculture, or other financing
10 source, with lower cost of funds, for the amount deemed necessary.

11 **Section 2. Authorization to lease property.** The Department of Youth Affairs is
12 authorized to enter into a long term lease of its Talofofò property, described as Lot No. 405,
13 Talofofò, Guam, Estate No. 24059, Suburban, containing an area of 88,027 square meters, as shown
14 on LM drawing No. E4-71T682. The proceeds from the lease *shall* be used to repay funds borrowed

1 for the design, construction and equipping of a new facility on its Mangilao footprint, and for other
2 allowed uses as contained in Section 3 of this Act. The lease *shall* be subject to legislative approval.

3 **Section 3. A new Article 3 is added to Chapter 20, Title 19, Guam Code Annotated,**
4 **to read:**

5 **”ARTICLE 3**
6 **DYA FACILITY FUND**

7 **§ 20300. Creation.**

8 **§ 20301. Separate Fund and Bank Account.**

9 **§ 20302. Purpose and Expenditures.**

10 **§ 20303. Deposits.**

11 **§ 20304. Administration.**

12 **§ 20305. Investment.**

13 **§ 20306. New DYA Facility Construction.**

14 **§ 20307. Severability.**

15 **§ 20300. Creation.** There is hereby created, separate and apart from other funds of the
16 government of Guam, a reserve fund known as the “*DYA Facility Construction Fund*”.

17 **§ 20301. Separate Fund and Bank Account.** The DYA Facility Construction Fund
18 *shall* not be commingled with the General Fund *or* any other fund of the government of Guam. The
19 DYA Facility Construction Fund *shall* be maintained in a separate bank account.

20 **§ 20302. Purpose and Expenditures.** The DYA Facility Construction Fund *shall* be
21 expended for the construction of the new Department of Youth Affairs Facility, including, *but not*
22 *limited to*, the following: A/E for the proposed building facility; environmental concerns;
23 archeological and historic site survey and/or assessment of the project site; site preparation and civil
24 work for the building foundation; construction cost for the structure of the proposed building facility
25 to be built on DYA’s current Mangilao footprint.

26 **§ 20303. Deposits.** All monies received from approved source(s) of funding for the
27 design, construction and equipping of the Department of Youth Affairs Facility *shall* be deposited
28 into the DYA Facility Construction Fund.

29 **§ 20304. Administration.** The Director of Youth Affairs *shall* account for and
30 administer the DYA Facility Construction Fund. The Director *shall* keep all books, records, files and

1 accounts of the DYA Facility Construction Fund. The Director *shall* prepare monthly reports relative
2 to the DYA Facility Construction Fund reflecting the transactions and the financial condition of the
3 DYA Facility Construction Fund, which monthly reports *shall* be transmitted to *I Liheslatura* and *I*
4 *Maga'lahi*.

5 **§ 20305. Investment.** The Director of Youth Affairs, together with the Director of
6 Administration, *shall* invest money held in the DYA Facility Construction Fund in any type of
7 investment approved for the Retirement Fund. All proceeds and income from investments of the
8 DYA Facility Construction Fund *shall* be deposited in the DYA Facility Construction Fund.

9 **§ 20306. New DYA Facility Construction.** (a) The Department of Youth Affairs is
10 hereby authorized to provide for the design, construction and collateral equipment of a new public
11 facility by entering into a financing arrangement with the U.S. Department of Agriculture, *or* other
12 financing source, with lower cost of funds, *not to exceed* Eight Million Dollars (\$8,000,000.00), for
13 a term *not to exceed* forty (40) years.

14 (b) Any financial arrangement to provide for the design, construction and collateral
15 equipment of the DYA Facility *shall* be subject to the approval of the secured creditor of the
16 Department of Youth Affairs. The Director of Youth Affairs, without jeopardizing existing
17 obligations, is authorized to use a portion of its Talofofu Leasehold, which *shall* be deposited into
18 the DYA Facility Construction Fund to make repayment and assure that its loan installments are paid
19 on time; for emergency maintenance; for extensions to facilities; and for replacement of short-lived
20 assets with a useful life significantly *less than* the repayment period of any loan *or* the term, *or* any
21 other financial arrangement.

22 (c) Any monies reimbursed for expenses incurred on the design and construction of the DYA
23 Facility *shall* revert to the DYA Facility Construction Fund.

24 (d) *I Liheslaturan Guåhan* encourages the Department of Youth Affairs to explore and
25 identify any and all potential financing sources *or* grants, including, but *not limited to*, any Federal
26 government instrumentalities *or* private financial lending sources for construction of the DYA
27 Facility.

28 (e) Interest derived from the financial agreement *shall* be *exempt* from taxation by the
29 Government.

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

5 **§ 20307. Severability.** *If any provision of this Act, or its application to any person or*
6 *circumstance, is found to be invalid or contrary to law, such invalidity shall not affect other*
7 *provisions or applications of this Act which can be given effect without the invalid provisions*
8 *application, and to this end the provisions of this Act are severable.”*