

MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN
2013 (FIRST) Regular Session

Bill No. 93-32(1092)

Introduced by:

T. R Muña Barnes

**AN ACT TO AMEND §12015.5, CHAPTER 12, TITLE 12,
GUAM CODE ANNOTATED, RELATIVE TO THE WATER
AND SEWER SYSTEM DEVELOPMENT CHARGE.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

**Section 1. Section 12015.5 of Title 12 GCA is hereby amended to
read:**

(a) The Guam Waterworks Authority (“GWA”) shall establish and implement, subject to the prior approval of the Commission in subsection (b), a water and sewer system development charge (SDC) schedule, which charges shall be assessed on each user who is for the first time connecting property into the Guam water and/or wastewater system, or to each developer/builder if the density of development on existing connection is increased. The SDC shall in no event apply to a user or developer/builder who is for the first time connecting property into the Guam water or wastewater system for property or projects designated as affordable homes. For the purposes of this Section, such users whose

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1 total household income does not exceed up to one hundred
2 fifty percent (150%) of the median income for Guam as
3 annually published for Guam by the United States
4 Department of Housing and Urban Development (HUD)
5 and the United States Department of Agriculture (USDA)
6 and for which property is certified by the Guam Housing
7 and Urban Renewal Authority (GHURA) as meeting the
8 affordable housing eligibility criteria or such
9 developers/builders whose projects are certified by GHURA
10 as meeting the affordable housing eligibility criteria, shall
11 be exempt from payment of the SDC. Such charge schedule
12 shall seek to recover the additional costs associated with
13 constructing, expanding, upgrading and repairing water and
14 wastewater facilities for such new users and development,
15 and shall take into account existing infrastructure on the
16 property, present and future user demands, requirements for
17 water and/or sewer services, and installation of
18 infrastructure to be done by the user or developer/builder.

19 (b) Pursuant to its authority, the Commission shall immediately
20 begin proceedings to promptly establish and approve the
21 water and sewer system development charge schedule for
22 GWA. The Commission has the authority to adopt and
23 approve a charge schedule for GWA which complies with
24 Subsection (a) of this Section, including, a schedule which
25 shall be known as the Amortized System Development
26 Charge (ASDC) for ~~low or moderate income~~ residents who
27 are constructing or purchasing a single family dwelling

1 intended for their personal residence and/or for immediate
2 family members ~~and who meet the criteria for low or~~
3 ~~moderate income as defined by the Guam Housing~~
4 ~~Corporation.~~ Such charge shall be assessed at an initial
5 amount of 20% of the total ASDC ~~One Thousand Dollars~~
6 ~~(\$1,000.00)~~ and the remainder of the charge shall be
7 amortized over a period not to exceed fifteen (15) years, in
8 which the charge plus interest is added to the monthly GWA
9 billing for the dwelling at a rate in which the total annually
10 assessed charge shall not exceed the initial charge, and
11 provided, that nothing herein shall limit the Commission's
12 authority and jurisdiction to establish and approve General
13 Lifeline Rates for GWA which may apply to the water and
14 sewer development charge schedule. The charge schedule
15 shall be applied to users and developers/builders by GWA
16 upon its adoption and approval by the Commission, and no
17 charges shall be assessed prior to adoption and approval by
18 the Commission.

19 (1)ASDC Applicability. The ASDC shall not apply to
20 any commercial development the construction of
21 multiple residential units.

22 (2)ASDC Not Transferable. Should a home owner
23 paying an ASDC decide to sell or transfer the
24 property, on which the ASDC applies, to a person
25 who is not an immediate family member or who
26 qualifies for the ASDC under this Chapter, then full
27 payment of any balances owed for the ASDC shall be

1 paid in full prior to registration of the sale and
2 transfer of the property at the Department of Land
3 Management and prior to the transfer of the original
4 owner's water/wastewater account to the new owner
5 and/or occupant of the residence.

6 (c) Notwithstanding any other provision of law, all revenues
7 generated by the water and sewer system development
8 charge schedule will be deposited into the Island Water and
9 Sewer Infrastructure Development Fund. Such funds shall
10 be administered by GWA. However, GWA shall file
11 annually for Commission review and approval a full
12 accounting of the receipts and expenditures into and from
13 the Fund with appropriate details of the sources and
14 expenditures into and from the Fund.

15 (d) The Island Water and Sewer Infrastructure Development
16 Fund shall only be expended for costs associated with the
17 construction, expansion, upgrade, and repair of water and/or
18 wastewater facilities for users who are for the first time
19 connecting property into the Guam's water or wastewater
20 system or for developers/builders if the density of
21 development on existing connection is increased.

22 (e) Fees due under the water and sewer development charge
23 schedule adopted by the Commission shall be paid to GWA
24 prior to the issuance of a building construction permit.
25 Subsequent to the adoption and approval of the charge
26 schedule by the Commission, no building construction
27 permit shall be issued without a certificate issued by GWA

1 that all fees due under the charge schedule have been paid,
2 except that the Commission shall develop and adopt a
3 schedule for GWA customers qualified for the ASDC that
4 shall allow for the building construction permit to be issued
5 subsequent to payment of the initial charge.

6 (f) Any person may contest any proposed assessment for the
7 water and sewer development charge schedule made or
8 determined by GWA by filing with GWA a written protest
9 at any time prior to the issuance of a building construction
10 permit. All protests shall be prepared in the form and
11 contain such information as GWA shall reasonably require,
12 and shall include a summary statement of the grounds upon
13 which the person relies and that person's reasons for
14 disputing the assessment of GWA. GWA shall make a
15 determination with respect to the protest and, if required,
16 make an adjustment to the assessment within thirty (30)
17 days of receipt of such protest. Persons dissatisfied with
18 GWA's determination may file a petition with the
19 Commission to review such determination within thirty (30)
20 days of GWA's determination.

21 (g) Except as provided hereafter, each person who made a
22 voluntary contribution under Section 56119 of Title 5 of the
23 Guam Code Annotated shall be compensated to the extent
24 the amount contributed is greater than the charges that
25 would apply under the charge schedule approved by the
26 Commission. Such persons shall be compensated the
27 difference through an abatement of business privilege taxes

1 equal to the differential. Persons seeking credits under this
2 Subsection shall make an application to GWA within one
3 (1) year of the date of enactment of this Act, and GWA
4 shall determine the amount of any credit within ninety (90)
5 days of its receipt of the application. Persons dissatisfied
6 with GWA's determination may file a petition with the
7 Commission to review such determination. This Subsection
8 shall not apply to persons who previously received credits
9 under Section 56119 of Title 5 of the Guam Code
10 Annotated.

11 (h) Except for voluntary contributions previously made, no
12 further assessments shall be collected or imposed by GWA
13 or the Commission under Section 56119 of Title 5 of the
14 Guam Code Annotated.”

15 **Section 2. Effective Date.** This Act shall take effect upon
16 enactment.