

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN  
2015 (FIRST) Regular Session

Bill No. 127-33 (cov)

Introduced by:

Michael F.Q. San Nicolas 

---

AN ACT TO ADD A NEW §58106.1 TO 12 GCA;  
RELATIVE TO ESTABLISHING QUALIFYING  
CERTIFICATE CERTIFICATION REQUIREMENTS  
TO ENSURE THAT NO VENDOR PAYABLES OR  
CLASSIFIED EMPLOYEE COMPENSATION ARE  
OVER THIRTY (30) DAYS PAST DUE.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Short Title. This Act *shall* be cited as the "Responsible  
3 Vendor Payment Act."

4 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan*  
5 finds that the government of Guam has historically faced serious issues  
6 with past due payables to vendors. In the private sector, individuals and  
7 businesses which have not paid their bills for over thirty (30) days begin to  
8 face significant negative consequences, including fees and penalties, a  
9 reduced credit rating, less ability to borrow, and other issues. The  
10 government also faces negative consequences when it pays vendors late.  
11 For example, some vendors will be unwilling to bid for government  
12 contracts for goods and services, others may raise prices to offset  
13 repayment risk, and others may charge interest on late payments. Simply

2015 JUN 10 PM 2:02

1 put, many small businesses cannot wait for months before they get paid for  
2 the goods and services they provide. Those that continue to offer goods  
3 and services to the government will require an additional mark-up because  
4 of the expected delay in payments. The government of Guam should pay  
5 all vendors within (30) days, consistent with industry standards, and the  
6 same standard should apply to employee compensation, in the interest of  
7 fairness.

8 *I Liheslatura* further finds that part of ensuring that the QC Program is  
9 being operated responsibly is to make sure that the government can afford  
10 the benefits it provides a new QC beneficiary. If government agencies are  
11 behind on vendor payables and/or employee compensation, then catching  
12 up on such expenses should take precedence over the provision of  
13 additional QC benefits.

14 *I Liheslatura* finds that three (3) of the abatements authorized in the  
15 Qualifying Certificate law affect the General Fund, GMHA Pharmaceutical  
16 Fund, and the Guam Territorial Educational Facilities Fund respectively.  
17 The Business Privilege Tax, abated by 12 GCA §§ 58127.3, 58127.4 58127.5,  
18 and 58127.6, provides resources to the General Fund and the GMHA  
19 Pharmaceutical Fund, and the Real Property Tax, abated by 12 GCA  
20 §58127.1, provides resources for the Guam Territorial Educational Facilities  
21 Fund. These funds are used to fund health, education, and public safety  
22 agencies and programs. A shortfall of either of these funds would result in

1 fewer resources for education and public health, which are important  
2 priorities for the people of Guam.

3 It is therefore the intent of *I Liheslaturan Guåhan* to assure that  
4 executive branch agencies and instrumentalities provide timely payments  
5 to vendors which provide goods and services to the government of Guam  
6 and remain current on compensation owed to classified employees of the  
7 government of Guam, by adding a new §58106.1 to 12 GCA, requiring that  
8 the Director of Administration certify that such payments are not more  
9 than thirty (30) days past due before a QC can be issued, reissued, or  
10 reinstated. If such certifications are not made, then such QC beneficiaries  
11 may not receive abatements against the Business Privilege Tax or the Real  
12 Property Tax.

13 **Section 2. Certifications Required for the Issuance of New,**  
14 **Reissuance of Existing and/or Expiring, or Reinstatement of Suspended,**  
15 **Rescinded, or Revoked Qualifying Certificates.** A *new* §58106.1 is hereby  
16 *added* to 12 GCA, to read:

17 **“§58106.1. Certifications Required for the Issuance of New,**  
18 **Reissuance of Existing and/or Expiring, or Reinstatement of**  
19 **Suspended, Rescinded, or Revoked Qualifying Certificates.**

20 (a) Definitions. For the purposes of this Section, unless context  
21 otherwise requires, the following definitions *shall* apply:

22 (1) ‘Account payable’ or ‘accounts payable’ *means* an  
23 account reflecting a balance owed to a vendor;

1                   (2) 'Certification' *means* a statement which authoritatively  
2                   attests that the information provided is true, signed by the  
3                   Director of Administration under penalty of perjury and  
4                   attested to by the Certifying Officer of the Department of  
5                   Administration pursuant to their responsibilities under 4 GCA  
6                   Chapter 14.

7                   (3) 'Classified employee compensation' *means* an  
8                   uncontested adjustment in employment compensation for  
9                   classified employees of an executive branch agency or  
10                  instrumentality owed by the provision of law or an employee  
11                  compensation policy;

12                  (4) 'Due' *means* owing or payable, with respect to  
13                  accounts payable or classified employee compensation;

14                  (5) 'Payee' *means* one to whom money is paid or payable;  
15                  and

16                  (6) 'Vendor' *means* a seller with which an executive  
17                  branch agency of the government of Guam has entered into a  
18                  contract to provide goods and services in exchange for  
19                  remuneration.

20                  (b) Certifications required. Before the Guam Economic  
21                  Development Authority Board recommends the issuance of a new,  
22                  the reissuance of an existing and/or expiring, or the reinstatement of  
23                  a suspended, rescinded, or revoked, under 12 GCA §58111,

1 Qualifying Certificate, the Board *shall* be in receipt of a Certification  
2 of Vendor Accounts Payable as provided in Subsection (c) of this  
3 Section and a Certification of Classified Employee Compensation as  
4 provided in Subsection (d) of this Section, both of which *shall* have  
5 been issued within the ten (10) working days preceding the Board's  
6 recommendation to issue, reissue, or reinstate such Qualifying  
7 Certificate. The Board *may* recommend the issue, reissue, or  
8 reinstatement of such Qualifying Certificates without the  
9 certifications as specified in this section, however, no abatements as  
10 provided in 12 GCA § 58127.1 [Real Property Tax], and/or 12 GCA §§  
11 58127.3, 58127.4 58127.5, and/or 58127.6 [Gross Receipts Tax] *may* be  
12 included as recommended benefits conferred by such Qualifying  
13 Certificate unless the Board is in receipt of such certifications. Before *I*  
14 *Maga'lahaen Guðhan* issues a new, reissues of an existing and/or  
15 expiring, or the reinstates a suspended, rescinded, or revoked, under  
16 12 GCA §58111, Qualifying Certificate, *I Maga'lahaen Guðhan* shall be in  
17 receipt of a Certification of Vendor Accounts Payable as provided in  
18 Subsection (c) of this Section and a Certification of Classified  
19 Employee Compensation as provided in Subsection (d) of this  
20 Section, both of which *shall* have been issued within the ten (10)  
21 working days preceding the Governor's issuance, reissuance, or  
22 reinstatement such Qualifying Certificate. Such Qualifying  
23 Certificates *may* be issued without the certifications as specified in

1 this section, however, no abatements as provided in 12 GCA §  
2 58127.1 [Real Property Tax], and/or 12 GCA §§ 58127.3, 58127.4  
3 58127.5, and/or 58127.6 [Gross Receipts Tax] *may* be included as  
4 benefits conferred by such Qualifying Certificate unless the Governor  
5 is in receipt of such certifications. Failure to fulfill the requirement for  
6 certifications provided under this Subsection *shall* render void  
7 abatements authorized in 12 GCA § 58127.1 [Real Property Tax],  
8 and/or 12 GCA §§ 58127.3, 58127.4 58127.5, and/or 58127.6 [Gross  
9 Receipts Tax] of any such Qualifying Certificate issued, reissued, or  
10 reinstated.

11 (c) Certification of Vendor Accounts Payable. *Only if* all  
12 agencies and instrumentalities of the government of Guam have *no*  
13 vendor accounts payable that are thirty (30) days or more past due as  
14 of the date of certification, *then* the Director of Administration *may*  
15 issue a Certification of Vendor Accounts Payable. Such Certification  
16 of Vendor Accounts Payable *shall* be signed by the Director of  
17 Administration under penalty of perjury, and further attested by the  
18 Certifying Officer for the Department of Administration, and *shall*  
19 state that all agencies and instrumentalities of the government of  
20 Guam have *no* vendor accounts payable that are thirty (30) days or  
21 more past due as of the date of certification. For the purposes of such  
22 certification, items that are contested or unable to be paid by reason

1 of an inability of the government of Guam to locate a payee *shall* not  
2 be included in vendor accounts payable.

3 (d) Certification of Classified Employee Compensation. *Only if*  
4 all agencies and instrumentalities of the government of Guam have  
5 *no* classified employee compensation that are thirty (30) days or more  
6 past due as of the date of certification, *then* the Director of  
7 Administration *may* issue a Certification of Classified Employee  
8 Compensation. Such Certification of Classified Employee  
9 Compensation *shall* be signed by the Director of Administration  
10 under penalty of perjury, and further attested by the Certifying  
11 Officer for the Department of Administration, and *shall* state that all  
12 agencies and instrumentalities of the government of Guam have *no*  
13 classified employee compensation that are thirty (30) days or more  
14 past due as of the date of certification. For the purposes of such  
15 certification, compensation that are contested or unable to be paid by  
16 reason of an inability of the government of Guam to locate a payee  
17 *shall* not be included in classified employee compensation.”

18 **Section 3. Effect upon Enactment.** The provisions of this Act *shall*  
19 apply prospectively upon the date of enactment of this Act.

20 **Section 4. Severability.** *If* any provision of this Act or its application  
21 to any person or circumstance is found to be invalid or contrary to law,  
22 such invalidity *shall* not affect other provisions or applications of this Act

- 1 which can be given effect without the invalid provisions or application,
- 2 and to this end the provisions of this Act are severable.